

APPENDIX

TO THE HISTORY OF THE SIXTH CONGRESS.

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

FRANCE.

[Communicated to Congress, December 5, 1799.]

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives:*

I transmit to Congress certain documents which have relation to the communications made on Tuesday, on the subject of the renewal of commerce with St. Domingo, and the mission to the French Republic.

JOHN ADAMS.

UNITED STATES, Dec. 5, 1799.

Renewal of Commerce with St. Domingo.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, by an act of the Congress of the United States, passed the 9th day of February last, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," it is provided, That, at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order, to remit and discontinue for the time being, the restraints and prohibitions by the said act imposed, either with respect to the French Republic, or to any island, port, or place, belonging to the said Republic, with which a commercial intercourse may safely be renewed; and also to revoke such order whenever, in his opinion, the interests of the United States shall require; and he is authorized to make proclamation there-of accordingly:

And, whereas, the arrangements which have been made at St. Domingo, for the safety of the commerce of the United States, and for the admission of American vessels into certain ports of that island, do, in my opinion, render it expedient, and for the interest of the United States, to renew a commercial intercourse with such ports:

Therefore, I, JOHN ADAMS, President of the United States, by virtue of the powers vested in me by the above-recited act, do hereby remit and discontinue the restraints and prohibitions therein contained, within the limits and under the regulations here following, to wit:

1. It shall be lawful for vessels which have departed or may depart from the United States, to enter the ports of Cape François and Port Republicain, formerly called Port-au-Prince, in the said island of St. Domingo, on and after the 1st day of August next.

2. No vessel shall be cleared for any other port in St. Domingo than Cape François and Port Republicain.

3. It shall be lawful for vessels, which shall enter the said ports of Cape François and Port Republicain, after the thirty-first day of July next, to depart from thence to any port in said island between Monte Christi, on the north, and Petit Goave, on the west, provided it be done with the consent of the Government of St. Domingo, and pursuant to certificates or passports expressing such consent, signed by the Consul General of the United States, or Consul residing at the port of departure.

4. All vessels sailing in contravention of these regulations will be out of the protection of the United States, and be, moreover, liable to capture, seizure, and confiscation.

Given under my hand and the seal of the United States, at Philadelphia, the twenty-sixth day of June, in the year of our Lord 1799, and of the independence of said States the twenty-third.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING,
Secretary of State.

Mission to France.

Letter from Patrick Henry, Esq., to the Secretary of State.

CHARLOTTE COUNTY, (Va.)

April 16, 1799.

SIR: Your favor of the 25th ultimo did not reach me till two days ago. I have been confined for several weeks by a severe indisposition, and am still so sick as to be scarcely able to write this.

My advanced age and increasing debility compel me to abandon every idea of serving my country, where the scene of operation is far distant, and her interests call for incessant and long-continued exertion. Conscious as I am of my inability to discharge the duties of Envoy, &c.

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to France, to which, by the commission you send me, I am called, I herewith return it.

I cannot, however, forbear expressing on this occasion, the high sense I entertain of the honor done me by the President and Senate in the appointment; and I beg of you, sir, to present me to them in terms of the most dutiful regard, assuring them that this mark of their confidence in me, at a crisis so eventful, is a very agreeable and flattering proof of their consideration towards me, and that nothing short of absolute necessity could induce me to withhold my little aid from an Administration whose abilities, patriotism, and virtue, deserve the gratitude and reverence of all their fellow-citizens.

With sentiments of very high regard, and unfeigned esteem, I am, sir, &c.

P. HENRY.

Copy of a letter from Mr. Talleyrand, as Minister of Exterior Relations, to Mr. Pichon, Secretary of Legation, Hague, dated

PARIS, 11th *Fructidor*,
(August 28, 1798,) 6th year.

I see with pleasure, citizen, that the intercourse of society has procured you some political conversations with Mr. Murray. I entertain an esteem for that Minister. Like all the men at the head of the affairs of the United States, he has received the impressions which the British Cabinet has known how to give against us. He thinks the measures of his Government just, and supports them; but he possesses reason, understanding, and a true attachment to his country: he is neither French nor English: he is ingenuously an American. I am not at all surprised that he has appeared to you to wish sincerely for the reconciliation of the two Republics. I will, therefore, cheerfully answer the questions you put to me on different points, which appeared to you not to be well established in his mind.

I do not see between France and the United States any clashing of interests, any cause of jealousy. The Americans wish to be fishermen, sailors, manufacturers, and especially husbandmen. In all these points of view, their success is more at the expense of England than us. Why should we be uneasy about them? They aspire to the consolidation of their national existence, and it is to our purpose that they should succeed. In fact, we should have decided upon very superficial views to sustain their independence, if the matter was to separate them from England merely to leave them finally insulated among themselves, on an extensive seacoast, weak, rivalling, and impoverished by each other, and torn by foreign intrigues. We know that Great Britain would soon have to put together, piece by piece, those scattered shreds, and we should have done nothing useful for ourselves, if so miserable a chance of it were not daily rendered more remote.

What, therefore, is the cause of the misunderstanding, which, if France did not manifest herself more wise, would henceforth induce a violent

rupture between the two Republics? Neither incompatible interests, nor projects of aggrandizement, divide them. After all, distrust alone has done the whole. The Government of the United States has thought that France wanted to revolutionize it. France has thought that the Government of the United States wanted to throw itself into the arms of England. It does not require much skill to divine which is the Cabinet interested in the two events producing each other, and which invisibly puts in motion all the expedients calculated to make them take effect. Let us open our eyes on both sides. I am disposed to admit that the conduct of the Government of the United States may be explained by other causes than those heretofore presumed. But let it on its part understand that the French Government, wounded as it may be, is too wise to entertain the views of disturbance which the other supposes. It concerns a Republic, founded on the system of representation, to support and not to weaken similar establishments. The stability of this system abroad is a necessary example at home. France, in fine, has a double motive, as a nation and as a Republic, not to expose to any hazard the present existence of the United States. Therefore, it never thought of making war against them, nor exciting civil commotions among them; and every contrary supposition is an insult to common sense.

These fundamental principles being established, it is natural to ask by what fatality a good understanding was not long since restored. It was because irritation being mingled with distrust, neither party yielded to real conciliatory inclinations. In the United States it was supposed that the French Government was temporizing, in order to strike the blow with greater certainty; whence resulted a crowd of measures more and more aggravating. In France it was supposed that the Government of the United States wished only the appearances of a negotiation, whence resulted a certain demand for pledges of good faith.

Let us substitute calmness for passion, confidence for suspicions, and we shall soon agree. I used my endeavors to enter upon a negotiation in this spirit with Mr. Gerry. My correspondence with him, until the day of his departure, is a curious monument of advances on my part, and of evasions on his. It is wrong to think that I confined myself to vague protestations. Among that series of official letters, which will doubtless be published at Philadelphia, I select one, of the 30th Prairial, wherein you will see that I make very positive propositions, without any mixture of preliminary conditions. This letter was followed by three notes upon the articles to be discussed, and I intended to complete the others in this manner if Mr. Gerry had not refused to answer thereto.

When it became necessary to abandon the idea of treating with that Envoy, who thought it important only to know how a negotiation might thereafter be resumed, I gave him the most solemn assurances concerning the reception that a new Plenipotentiary would receive. It was far from my thoughts to insinuate that the President should send one from the United States, instead of

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investing with his powers some one who was in Europe; far less that the Envoy should land directly in France, instead of announcing it in a neighboring country. I wished merely to say, that the Executive Directory was so decided for a reconciliation, that all tampering would be superfluous, that an act of confidence in it would excite its own. I should be very badly understood, if there should be found in my expressions a restriction on the nature of the choice which the President might make. I wished to encourage Mr. Gerry, by testimonies of regard, that his good intentions merited; although I could not dissemble that he wanted decision, at a moment when he might have easily adjusted every thing. It does not thence follow that I designated him. I will even avow that I think him too irresolute to be fit to hasten the conclusion of an affair of this kind. The advantages which I prized in him are common to all Americans who have not manifested a predilection for England. Can it be believed that a man who should profess a hatred or contempt of the French Republic, or should manifest himself the advocate of royalty, can inspire the Directory with a favorable opinion of the dispositions of the Government of the United States? I should have disguised the truth, if I had left this matter ambiguous. It is not to wound the independence of that Government, to point out a sincere friend of peace the shoals he ought to avoid.

As to the mediation of the Batavian Republic, and of Spain, I do not know that there is any serious question about it, and it appears to me absolutely useless. The United States might hesitate in the present state of things, to refer themselves to their impartiality, and besides, I perceive no subject which may not be arranged directly.

I know that the distance which separates France and the United States opens a vast field for incidents, and there have been but too many of them. But the Executive Directory is unshaken in the conduct which may best obviate them. The excess even of provocations has deadened their effect. The Government of the United States surrounds itself with precautions against an imaginary attack. To stretch the hand to deluded friends, is what one Republic owes to another, and I cannot doubt that the dignity of that attitude will convince the President of our pacific intentions.

The two Governments ought, above all, to be attentive to indirect attempts to alienate them still more. Their prudence will secure this object, and I shall cite but one example of it. You have told Mr. Murray the truth respecting Dr. Logan. But I perceive, that on all hands it is attempted to produce a belief in America, that we are negotiating with him. On the 7th of this month, a very insidious paragraph was inserted in the *Bien Informé*. It is therein intimated that, guided by the citizen Thomas Paine, Dr. Logan has made application to the Executive Directory, in the character of a secret agent. The doctor has complained bitterly of it to me. He has no need of justifying himself concerning the matter, the falsity of which I know better than anybody; but

he assured me, that having once only met Thomas Paine, at the house of a third person, he found him so prejudiced against the United States, and so opinionative, with respect to an influence he neither possesses among them nor us, that he abstained from conversing any more with him. Moreover, to cut short all misunderstanding, I engaged Dr. Logan to postpone, till another time, the experiment he proposes to make on agriculture, and to return home. As to Mr. Hitchborn, of Massachusetts, I was even ignorant till now that he was in Europe. A single word will suffice for the rest.

We want nothing but justice on the part of the United States; we ask it; we offer it to their Government: it may depend upon the candor of the Executive Directory.

You will not doubt, citizen, that I approve of the communications which your zeal has caused you to seek with Mr. M., since I enabled you to resume them with official elucidations, &c.

CH. MAU. TALLEYRAND.

[This letter was received from Mr. Murray, without the French original.]

The Minister of Exterior Relations to Citizen Pichon, Secretary of Legation of the French Republic, near the Batavian Republic.

PARIS, the 7th Vendemiaire,
(Sept. 28, 1798,) 7th year of the French Republic, one and indivisible.

I have received successively, citizen, your letters of the 22d and 27th Fructidor, (8th and 13th of September.) They give me more and more cause to be pleased with the measures you have adopted to detail to me your conversations with Mr. Murray; those conversations, at first merely friendly, have acquired a consistency, by my sanction, transmitted to you on the 11th Fructidor, (28th of August.) I do not regret that you have trusted to Mr. Murray's honor a copy of my letter. It was intended only for you; and it contains nothing but what is conformable to the Government's intention. I am fully convinced that should explanations once take place with confidence between the two Cabinets, irritation would cease, a number of misunderstandings would disappear, and the ties of friendship would be more strongly united, as both parties would be made sensible what hand had attempted to disunite them. But I do not conceal from you that your letter of the 2d and 3d Vendemiaire, (23d and 24th of September,) this moment arrived, surprises me much. What Mr. Murray is still doubtful of has been very explicitly declared, before even the President's Message to Congress, of the 3d Messidor, (21st of June,) was known in France. I had written it to Mr. Gerry, namely, on the 26th Messidor, (12th of July,) and 4th Thermidor, (July 22d.) I repeated it to him before he set off. A whole paragraph of my letter to you, of the 11th Fructidor, (28th of August,) of which Mr. Murray has a copy, is devoted to develop still more the fixed determination of the French Government. According to these bases, you were right

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to assert that whatever Plenipotentiary the Government of the United States might send to France, in order to terminate the existing differences between the two countries, he would be undoubtedly received with the respect due to the representative of a free, independent, and powerful nation.

I cannot persuade myself, citizen, that the American Government need any further declaration from us to take the resolution, in order to renew the negotiations; to adopt such measures, as would suggest their wish to bring the differences to a peaceable end. If misunderstandings on both sides have prevented former explanations reaching that end, it is presumable that these misunderstandings being done away, nothing henceforth will raise any obstacle to the reciprocal dispositions. The President's instructions to his Envoys at Paris, which I have only been acquainted with, by the copy given to you by Mr. Murray, and by me received the 21st Messidor, (9th of July,) announce, if they contain the whole of the American Government's intentions, dispositions which can only add to those the Directory has always entertained; and notwithstanding the posterior acts of that Government, notwithstanding the irritating and almost hostile measures which they have adopted, the Directory has shown that it persisted in the dispositions consigned as well in my correspondence with Mr. Gerry, as in my letter to you of the 11th Fructidor, and which I have hereinbefore repeated in the most explicit manner. Carry, therefore, citizen, to Mr. Murray these positive expressions; to convince him of our sincerity, and request him to transmit them to his Government.

I presume, citizen, this letter will find you at the Hague; if not, I ask it may be sent back to you at Paris.

Salute and fraternity.

CH. MAU. TALLEYRAND.

No. 22.

DEPARTMENT OF STATE,
Philadelphia, March 6, 1799.

SIR: I enclose a commission constituting you, in conjunction with the Chief Justice Ellsworth and Patrick Henry, Esq., of Virginia, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic. By the President's direction I enclose, for your information, copies of his Messages to the Senate of the 18th and 25th of March, by the latter of which you will see the motives inducing the nomination of a commission for the purpose of negotiating with France, instead of resting the business wholly with you. This will doubtless be agreeable, by relieving you from the weight of a sole responsibility in an affair of such magnitude.

It is the President's desire that you, by letter to the French Minister of Foreign Relations, inform him "that Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and yourself, are appointed Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, with full

powers to discuss and settle by treaty all controversies between the United States and France." But, "that the two former will not embark for Europe until they have received, from the Executive Directory, direct and unequivocal assurances, signified by their Secretary of Foreign Relations, that the Envoys shall be received in character to an audience of the Directory, and that they shall enjoy all the prerogatives attached to that character by the law of nations, and that a Minister or Ministers of equal powers shall be appointed and commissioned to treat with them."

The answer you shall receive to your letter you will be pleased to transmit to this office.

You will also be pleased to understand it to be the President's opinion, that no more indirect and inofficial communications, written or verbal, should be held with any persons whatever, agents on behalf of France, on the subjects of difference between the United States and the French Republic. If the French Government really desire a settlement of the existing differences, it must take the course above pointed out, unless the Executive Directory should prefer sending a Minister Plenipotentiary to the United States.

I have the honor to be, &c.,

TIMOTHY PICKERING.

WILLIAM VANS MURRAY, Esq.,
Minister United States, at the Hague.

THE HAGUE, *May 5, 1799.*

CITIZEN MINISTER: It is with the greatest pleasure that I hasten to fulfil the instructions, which I have just had the honor to receive from the Government of the United States of America, by informing you that the President has appointed Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and William Vans Murray, Minister Resident of the United States at the Hague, to be Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, with full powers to discuss and settle, by a treaty, all controversies between the United States and France; but that the two former (Mr. Ellsworth and Mr. Henry) will not embark for Europe until they shall have received from the Executive Directory direct and unequivocal assurances, signified by their Minister of Foreign Relations, that the Envoys shall be received in character to an audience of the Directory, and that they shall enjoy all the prerogatives attached to that character by the law of nations, and that a Minister or Ministers of equal powers shall be appointed and commissioned to treat with them.

I request you, Citizen Minister, to lay this subject before your Government, and, as the distance is so great and the obstacles so numerous in an Atlantic voyage, that you will favor me, as speedily as possible, with the answer which is to lead to such happy and important consequences.

Accept, Citizen Minister, the assurances of my perfect and high esteem.

WM. V. MURRAY.
Citizen TALLEYRAND, *Minister, &c., Paris.*

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THE HAGUE, May 7, 1799.

DEAR SIR: On the 4th instant, late in the evening, I had the honor to receive your No. 22, containing the commission of Envoys.

On the fifth, I addressed, precisely agreeably to your instructions, as I conceived, the enclosed letter to Mr. Talleyrand, the Minister of Exterior Relations. You will perceive, sir, that I did not think myself at liberty to go, not only not out of the commas, but beyond them; in one word alone I deviated, in the word "Minister" instead of "Secretary" of Foreign Relations. No direct nor indirect and inofficial communications written or verbal will be held by me with the French agents on American affairs.

I accept the appointment which it has pleased the President to clothe me with, under a grateful sense of the high honor conferred upon me, so unexpectedly, by this mark of his confidence. I may be allowed to say, that though I was deeply sensible of the honor conferred by the first nomination, and shall always, I hope, retain a most grateful recollection of it; yet, sir, the new modification of that nomination gave me great pleasure. Always conceiving, as I thought I did, that any negotiation with France would be full of anxieties and political perils to the Envoys that should be employed by our Government, I had no wishes to be engaged in it, and no expectation that I should be: to have a share in it was by me unsought. You will excuse this declaration, because I was instrumental in certain preliminary steps relative to the advances of France, which produced the basis of the appointment.

I sent the original of the enclosed to Mr. Talleyrand by post, another (a copy) to Major Mountflorencia, to be handed to him, a third to a Mr. Griffith for Major M. in case the other failed, to be opened by Mr. G. if Major M. should have been out of Paris, and directed Mr. G. to follow the instructions which he would find in the letter to Major M. which were to deliver the enclosed to Mr. Talleyrand and take his letter, answer for me, and to send it to me

As soon as I have the answer of the Directory, I shall have the honor of transmitting copies to you, sir, by different ways.

I am, with the greatest respect, &c.,

WM. V. MURRAY.

HON. TIMOTHY PICKERING, Esq.,
Secretary of State, United States.

The Minister of Exterior Relations to Mr. William Vans Murray, Minister Resident of the United States at the Hague.

PARIS, 23d Floreal, (May 12, 1799.)
*7th year of the French Republic,
one and indivisible.*

I augur too well, sir, from the eagerness you display in fulfilling the instructions of your Government, not to hasten to answer the letter I received from you dated the 15th of this month.

The Executive Directory being informed of the nomination of Mr. Oliver Ellsworth, of Mr. Patrick Henry, and of yourself, as Envoys Extraor-

dinary and Ministers Plenipotentiary of the United States to the French Republic, to discuss and terminate all differences which subsist between the two countries, sees, with pleasure, that its perseverance in pacific sentiments has kept open the way to an approaching reconciliation. It has a long time ago manifested its intentions with respect to this subject. Be pleased to transmit to your colleagues, and accept for yourself, the frank and explicit assurance that it will receive the Envoys in the official character with which they are invested; that they shall enjoy all the prerogatives which are attached to it by the law of nations, and that one or more Ministers shall be duly authorized to treat with them.

It was certainly unnecessary to suffer so many months to elapse for the mere confirmation of what I have already declared to Mr. Gerry, and which after his departure I declared to you at the Hague. I sincerely regret that your two colleagues await this answer at such a great distance. As to you, sir, whom it will reach in a few days, and who understand so well the value of time, when the restoration of harmony between the two Republics, which everything invites to friendship, is in question, be assured, that as soon as you can take in hand the object of your mission, I shall have the honor immediately to send you passports. Accept, sir, the assurances of my very sincere consideration,

CH. MAU. TALLEYRAND.

[Reported to the House of Reps., Feb. 14, 1800.]

The Committee of Commerce and Manufactures beg leave to report, on the subject of the suspension of the commercial intercourse between the United States and France, that the laws which have been enacted for that purpose have been, as far as appears to the committee, faithfully executed in all respects depending on the care of the officers of the United States. It is but too probable, however, that individuals, engaged in pursuit of private commercial advantages, and regardless of the public welfare, have evaded, in many instances, the provisions of those laws. Some observations from the Secretary of the Treasury relative to these practices, and a detail of the cases, which, under the sixth section of the last act of Congress, prohibiting commercial intercourse with France, have been transmitted to that department, are herewith submitted. The committee, being of opinion that it is expedient further to suspend all commercial intercourse between the United States and France, have prepared a bill for that purpose, which is also submitted, and, in the opinion of the committee, ought to be enacted without delay.

TREASURY DEPARTMENT, Jan. 23, 1800.

SIR: I have the honor to enclose a statement of all the cases which have been transmitted to this department for decision, pursuant to the act of Congress passed on the 9th of February, 1799, entitled "An act further to suspend the commer-

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cial intercourse between the United States, and France and the dependencies thereof."

Although this statement contains the substance of the information desired by the committee, and particularly in what manner the power granted by the sixth section of the act has been exercised, yet it may be useful to observe, that the law of Congress passed on the 13th of June, 1798, which imposed the first restrictions on commercial intercourse with France, was, by this department, understood to declare the following principles, by which the conduct of the collectors of the customs has accordingly been governed.

1st. That all exports to France or her dependencies were prohibited after the 1st day of July, 1798, except the goods and effects of Frenchmen residing in the United States, and about to depart in vessels with permits from the President of the United States.

2d. That the entry of vessels *bona fide* the property of citizens of the United States, or employed by them, and having on board property of such citizens only, was lawful until the 1st day of December, 1798, and no longer.

Although the true interpretation of the law cannot be considered as finally settled by judicial decisions, yet, as diversities of opinion are known to exist, it is desirable that the sense of the Legislature may be ascertained upon the following points, in case the restrictions upon commerce with France shall be continued after the 3d day of March ensuing.

1st. Whether the restrictions shall extend to any except French and American vessels?

2d. Whether trade through a neutral country, by means of a mutual agent of persons residing in the dominions of France and the United States, shall be lawful?

3d. Whether cartel vessels, with passports of the President of the United States, authorizing the departure of French citizens and their effects, shall be exempted from the restrictions imposed on other vessels?

4th. Whether vessels which may be captured or driven by distress into French ports, the cargoes of which may be seized or detained by the French Government, shall be allowed to receive merchandise or produce in exchange, or compensation for the cargoes so seized or detained.

The following practices have been discovered, and may be expected to increase, in case the law shall not provide a competent remedy.

1st. American citizens have proceeded to the island of St. Thomas, and have there obtained certificates of naturalization for themselves and their vessels; with such vessels a direct trade between the United States and French ports has been attempted to be prosecuted in the same manner as before the law was passed.

2d. Agents for commercial houses have been established in the island of St. Thomas, and other neutral places, to whom the productions of the United States have been consigned; these productions have been shipped from thence in other American vessels for French ports. The vessels

employed between the neutral French ports have been generally covered as Danish property.

3d. Although vessels which have been employed in transporting French citizens and their property from the United States have been carefully restricted by instructions, and by the custom-house inspection, from transporting merchandise on account of persons resident in the United States, yet there is reason to suspect that the intentions of the Government have in some instances been evaded. In case it shall be deemed reasonable to continue the provision for removing French citizens and their property, precise regulations for preventing the vessels from being employed in commerce will be highly necessary.

4th. Vessels have been carried to the vicinity of French ports, where, as is believed, they have been captured by French privateers, in consequence of preconceived arrangements: other vessels have entered French ports, on pretence of distress. Although the vessels have in many instances been liberated, yet the cargoes have been detained by order of Government. In some cases the masters or owners have been permitted to purchase return cargoes; latterly, to strengthen the plea for being admitted to entry in the United States, it has been represented that the masters have been compelled to receive cargoes on board their vessels.

The cases of vessels which have been reported as having been captured by privateers, or driven into French ports in distress, have been attended with particular difficulty. In some instances the representations have, doubtless, been fair and correct; but in others they have unquestionably been collusive and fraudulent. The protests and other papers usually produced by masters of vessels could not, however, furnish the means of a just discrimination.

No effectual remedy is perceived against an abuse which must continue to increase, but by declaring importations from French ports to be unlawful in all cases whatever, without excepting those of vessels really captured or driven into French ports in distress. The capture or arrival in distress may be involuntary, and, therefore, not illegal; but the purchase of a new cargo, or any purchase whatever, except of necessities to enable the captured persons to return to their own country, ought, as is believed, to be declared unlawful.

It may be said that such a regulation would be odious and severe; that it would be cruel to oblige men to suffer unnecessary losses, or to abandon their property to great risks when an equivalent was offered. Admitting these objections to have some force, yet it may be observed, with equal truth, that the act prohibiting commercial intercourse ought to be considered, in connexion with other measures, as constituting a part of the system of resistance adopted by the United States; that, prior to the adoption of this system, our vessels were captured and condemned indiscriminately; that the suspension of commerce is a measure which, if well executed, must powerfully influence the conduct of the French colonies; that no system of resistance can be executed without

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exposing our citizens to some losses; that it is impossible to distinguish cases of real capture or distress from those which are fictitious; that many of our citizens will not make reasonable efforts to avoid being captured or entering French ports, if they find themselves exempted from every loss and inconvenience; that the plea of forcible exchange cannot be admitted without permitting the French Government virtually to repeal our laws by means of their own internal regulations; and that, if the United States refuse to submit to an insidious policy, and some of our citizens suffer losses, it is against the French and not the American Government that their complaints ought to be directed.

I have the honor to be, with great respect, sir, your most obedient servant,

OLIVER WOLCOTT.

Hon. SAMUEL SMITH, Esq.

Chairman of the Committee of Commerce, &c.

[Communicated to the Senate, December 15, 1800.]

UNITED STATES, Dec. 15, 1800.

Gentlemen of the Senate:

I transmit to the Senate, for their consideration and decision, a convention both in English and French, between the United States of America and the French Republic, signed at Paris on the 13th day of September last, by the respective Plenipotentiaries of the two Powers. I also transmit to the Senate three manuscript volumes containing the journal of our Envoys.

JOHN ADAMS.

[The following Messages, with the accompanying documents, relating to the same subject, were also transmitted to the Senate.]

UNITED STATES, Dec. 22, 1800.

Gentlemen of the Senate:

In conformity with your request, in your resolution of the 19th of this month, I transmit you the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

It is my request to the Senate, that these instructions may be considered in strict confidence, and returned to me as soon as the Senate shall have made all the use of them they may judge necessary.

JOHN ADAMS.

UNITED STATES, Jan. 21, 1801.

Gentlemen of the Senate:

In compliance with your request, signified in your resolution of the 20th day of this month, I transmit you a report, made to me by the Secretary of State on the same day; a letter of our late Envoys to him of the 4th of October last; an extract of a letter from our Minister Plenipotentiary in London to him of the 22d of November last; and an extract of another letter from the Minister to the Secretary of the 31st of October last.

The reasoning in the letter of our late Envoys to France is so fully supported by the writers on the law of nations, particularly by *Vattel*, as well as by his great masters, *Grotius* and *Puffendorf*, that nothing is left to be desired to settle the point that, if there be a collision between two treaties, made with two different Powers, the more ancient has the advantage; for no engagement contrary to it can be entered into in the treaty afterwards made, and, if this last be found, in any case, incompatible with the more ancient one, its execution is considered as impossible, because the person promising had not the power of acting contrary to his antecedent engagement. Although our right is very clear to negotiate treaties according to our own ideas of right and justice, honor and good faith, yet it must always be a satisfaction to know, that the judgments of other nations, with whom we have connexion, coincide with ours, and that we have no reason to apprehend that any disagreeable questions and discussions are likely to arise. The letters from Mr. King will, therefore, be read by the Senate with particular satisfaction.

The inconveniences to public officers, and the mischiefs to the public, arising from the publication of the despatches of Ministers abroad are so numerous, and so obvious, that I request of the Senate that these papers, especially the letters from Mr. King, be considered in close confidence.

JOHN ADAMS.

Convention between the French Republic and the United States.

The Premier Consul of the French Republic, in the name of the people of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two States, have respectively appointed their Plenipotentiaries, and given them full powers to treat upon those differences and to terminate the same, that is to say: the Premier Consul of the French Republic, in the name of the people of France, has appointed for the Plenipotentiary of the said Republic, the citizens Joseph Bonaparte, ex-ambassador at Rome and Counsellor of State; Charles Pierre Claret Fleuriu, member of the National Institute, and of the Board of Longitude of France, and Counsellor of State, President of the Section of the Marine; and Pierre Louis Røederer, member of the National Institute of France, and Counsellor of State, President of the Section of the Interior. And the President of the United States of America, by and with the advice and consent of the Senate of the said States, has appointed for their Plenipotentiaries, Oliver Ellsworth, Chief Justice of the United States, William Richardson Davie, late Governor of the State of North Carolina, and William Vans Murray, Minister Resident of the United States at the Hague; who, after having exchanged their full powers, and after full and mature discussion of the respective interests, have agreed on the following articles:

ARTICLE 1. There shall be a firm, inviolable,

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and universal peace, and a true and sincere friendship between the French Republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

ART. 2. The Ministers Plenipotentiary of the two parties not being able to agree, at present, respecting the Treaty of Alliance of 6th February, 1778, the Treaty of Amity and Commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed; the parties will negotiate further on these subjects at a convenient time; and, until they may have agreed on these points, the said treaties and conventions shall have no operation, and the relations of the two countries shall be regulated as follows:

ART. 3. The public ships which have been taken on one part and the other, or which may be taken before the exchange of ratifications, shall be restored.

ART. 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored, on the following proofs of ownership, viz: The proof on both sides with respect to merchant ships, whether armed or unarmed, shall be a passport in the form following: "*To all who shall see these presents, greeting:*

"It is hereby made known that leave and permission has been given to —, master and commander of the ship called —, of the town of —, burden — tons, or thereabouts, lying at present in the port and haven of —, and bound for —, and laden with —, after that his ship has been visited, and before the sailing, he shall make oath before the officers who have the jurisdiction of maritime affairs, that the said ship belongs to one or more of the subjects of —, the act whereof shall be put to the end of these presents, as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinances and regulations, and enter in the proper office a list, signed and witnessed, containing the names and surnames, the places of birth, and abode of the crew of his ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine; and in every port or haven where he shall enter with his ship, he shall show this present leave to the officers and judges of the marine, and shall give a faithful account to them of what passed and was done during his voyage; and he shall carry the colors, arms, and ensigns of the French Republic, or the United States, during his voyage. In witness whereof, we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned — at —, the — day of —, anno Domini —."

And this passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding; which passport shall not be deemed requisite to have been renewed or recalled, whatever number of voyages the said ship may have

made, unless she shall have returned home within the space of a year. Proof with respect to the cargo shall be certificates, containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound; so that the forbidden and contraband goods may be distinguished by the certificates, which certificates shall have been made out by the officers of the place whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both, shall have been destroyed by accident, or taken away by force, their deficiency may be supplied by such other proofs of ownership as are admissible by the general usage of nations. Proof, with respect to other than merchant ships, shall be the commission they bear.

This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned, contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.

ART. 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

ART. 6. Commerce between the parties shall be free. The vessels of the two nations, and their privateers, as well as their prizes, shall be treated in the respective ports as those of the nation the most favored; and, in general, the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favored nation.

ART. 7. The citizens and inhabitants of the United States shall be at liberty to dispose, by testament, donation, or otherwise, of their goods, moveable and immoveable, holden in the territory of the French Republic in Europe, and the citizens of the French Republic shall have the same liberty with regard to goods, moveable and immoveable, holden in the territory of the United States, in favor of such persons as they shall think proper. The citizens and inhabitants of either of the two countries, who shall be heirs of goods, moveable or immoveable, in the other, shall be able to succeed *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded, under any pretext whatever; and the said heirs, whether such by particular title, or *ab intestato*, shall be exempt from every duty whatever, in both countries. It is agreed that this article shall in no manner derogate from the laws which either State may now have in force, or hereafter may enact, to prevent emigration; and, also, that, in case the laws of either of the two States should restrain strangers from the exercise of the rights of property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the coun-

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try where it may be, and the other nation shall be at liberty to enact similar laws.

ART. 8. To favor commerce on both sides, it is agreed that, in case war should break out between the two nations, (which God forbid,) the term of six months after the declaration of war shall be allowed to the merchants, and other citizens and inhabitants, respectively, on one side and the other, during which time they shall be at liberty to withdraw themselves, with their effects and moveables, which they shall be at liberty to carry, send away, or sell, as they please, without the least obstruction; nor shall their effects, much less their persons, be seized during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes which privateers may attempt against their persons and effects. And if anything be taken from them, or any injury done to them, or their effects, by one of the parties, their citizens, or inhabitants, within the term above prescribed, full satisfaction shall be made to them on that account.

ART. 9. Neither the debts due from the individuals of the one nation to the individuals of the other, nor shares, nor moneys which they may have in public funds, or the public or private banks, shall ever, in any event of war or national difference, be sequestered or confiscated.

ART. 10. It shall be free for the two contracting parties to appoint commercial agents for the protection of trade, to reside in France and the United States. Either party may except such place as may be thought proper from the residence of these agents. Before any agent shall exercise his functions, he shall be accepted in the usual forms by the party to whom he is sent; and when he shall have been accepted and furnished with his *exequatur*, he shall enjoy the rights and prerogatives of the similar agents of the most favored nations.

ART. 11. The citizens of the French Republic shall pay in the ports, havens, roads, countries, islands, cities, and towns of the United States, no other, or greater duties or imposts, of what nature soever they may be, or by what name soever called, than those which the nations most favored are, or shall be obliged to pay, and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation, and commerce, whether in passing from one port in the said States to another, or in going to and from the same from and to any part of the world, which the said nations do, or shall enjoy. And the citizens of the United States shall reciprocally enjoy in the territories of the French Republic in Europe, the same privileges and immunities, as well for their property and persons, and for what concerns trade, navigation, and commerce.

ART. 12. It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever to any port of the enemy of

the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same Power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced, may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless, after notice of such blockade or investment, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

ART. 13. In order to regulate what shall be deemed contraband of war, there shall be comprised, under that denomination, gunpowder, saltpetre, petards, match, ball, bombs, grenades, carcasses, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of troops; all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and are just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same, or a different owner.

ART. 14. It is hereby stipulated that free ships shall give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect: that, although they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemy.

ART. 15. On the contrary, it is agreed that whatever shall be found to be laden by the citizens of either party on any ship belonging to the enemies of the other, or their citizens, shall be con-

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fiscated without distinction of goods, contraband or not contraband, in the same manner as if it belonged to the enemy, except such goods and merchandises as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done without knowledge of such declaration; so that the goods of the citizens of either party, whether they be of the nature of such as are prohibited or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy before the war, or after the declaration of the same, without the knowledge of it, shall no ways be liable to confiscation, but shall well and truly be restored without delay to the proprietors demanding the same: but so as that if the said merchandises be contraband, it shall not be in any way lawful to carry them afterwards to any ports belonging to the enemy.

The two contracting parties agree, that the term of two months being passed after the declaration of war, their respective citizens, from whatever part of the world they come, shall not plead the ignorance mentioned in this article.

ART. 16. The merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage, and articles of their cargo, there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports or roads, not only their passports, but likewise their certificates, showing that their goods are not of the quality of those which are specified to be contraband in the thirteenth article of the present convention.

ART. 17. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed, that if one party shall be engaged in war, and the other party be neuter, the ships of the neutral party shall be furnished with passports similar to that described in the fourth article, that it may appear thereby that the ships really belong to the citizens of the neutral party; that they shall be valid for any number of voyages, but shall be renewed every year, that is, if the ship happens to return home in the space of a year. If the ships are laden, they shall be provided, not only with the passports above mentioned, but also with certificates similar to those described in the same article; so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and the ship shall be at liberty to pursue its voyage, unless the quantity of contraband goods be greater than can conveniently be received on board the ship of war or privateer; in which case the ship may be carried into port for the delivery of the same.

If any ship shall not be furnished with such pass-

port or certificates as above required for the same, such case may be examined by a proper judge or tribunal; and if it shall appear, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage.

If the master of a ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and cargo shall, nevertheless, be equally secure, and the passport remain in full force.

ART. 18. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war or privateer of the other; for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship shall exhibit his passport concerning the property of the ship, made out according to the form prescribed in the fourth article. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

ART. 19. It is expressly agreed by the contracting parties, that the stipulations above mentioned, relative to the conduct to be observed on the sea by the cruisers of the belligerent party towards the ships of the neutral party, shall be applied only to ships sailing without convoy; and, when the said ships shall be convoyed, it being the intention of the parties to observe all the regard due to the protection of the flag displayed by public ships, it shall not be lawful to visit them: but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board, shall be considered by the respective cruisers as fully sufficient: the two parties reciprocally engaging not to admit, under the protection of their convoys, ships which shall carry contraband goods destined to an enemy.

ART. 20. In all cases where vessels shall be captured or detained under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a descriptive list of the said papers: and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the said goods. Nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods sentence of confiscation, saving always the ship and the other goods which it contains.

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ART. 21. And, that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed, that it shall not be lawful to remove the master, commander, or supercargo of any captured ship, from on board thereof; either during the time the ship may be at sea after her capture, or pending the proceedings against her, or her cargo, or anything relative thereto. And, in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew, shall be hospitably treated. They shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo, and mate, five hundred dollars each, and for the sailors and passengers, one hundred dollars each.

ART. 22. It is further agreed, that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

ART. 23. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of seven thousand dollars, or thirty-six thousand eight hundred and twenty francs; or, if such ships be provided with above one hundred and fifty seamen or soldiers, in the sum of fourteen thousand dollars, or seventy-three thousand six hundred and forty francs; to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this convention, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

ART. 24. When the ships of war of the two contracting parties, or those belonging to their citizens which are armed in war, shall be admitted to enter with their prizes, the ports of either of the two parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges, or any others; nor shall such prizes, when they come to and enter the ports of either party, be arrested or seized: nor shall the officers of the place make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show. It is always understood that the stipulations of this article shall not extend beyond the privileges of the most favored nation.

ART. 25. It shall not be lawful for any foreign privateers who have commissions from any Prince or State in enmity with either nation, to fit their ships in the ports of either nation, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary for their going to the next port of that Prince or State, from which they have received their commissions.

ART. 26. It is further agreed, that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences. And all their ships, with the goods or merchandises taken by them and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors, or agents, duly authorized by them, (proper evidence being first given before competent judges for proving the property;) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

ART. 27. Neither party will intermeddle in the fisheries of the other on its coasts, nor disturb the other in the exercise of the rights which it now holds, or may acquire on the coast of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast, northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world.

This Convention shall be ratified on both sides in due form, and the ratifications exchanged in the space of six months, or sooner, if possible.

In faith whereof, the respective Plenipotentiaries have signed the above articles both in the French and English languages, and they have thereto affixed their seals; declaring, nevertheless, that the signing in the two languages shall not be brought into precedent nor in any way operate to the prejudice of either party.

Done at Paris, the eighth day of Vendemiaire, of the ninth year of the French Republic, the thir-

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tieth day of September, Anno Domini eighteen hundred.

JOSEPH BONAPARTE,
OLIVER ELLSWORTH,
CHARLES P. C. FLEURIEU,
WILLIAM R. DAVIE,
PIERRE LOUIS RÖDERER,
WILLIAM V. MURRAY.

Journal of the Envoys.

Journal of Oliver Ellsworth, William R. Davie, and William Vans Murray, Envoys Extraordinary and Ministers Plenipotentiary to the Court of France, containing their correspondence and negotiations from the 17th of January, 1800, to the 3d of October in the same year; and terminating in the Convention with France, of the 30th September, 1800.

OCTOBER 16.

The following letter from the Secretary of State, with its enclosure, was delivered to Mr. Ellsworth and Mr. Davie, at Trenton.

DEPARTMENT OF STATE,
Trenton, Oct. 16, 1799.

SIR: To fulfil the President's orders, and to convey correctly to you and — his sentiments towards you, and his determination respecting your mission as Envoys Extraordinary to the French Republic, I enclose a copy of his letter to me of this date; and have the honor to be, with great respect, your obedient servant,

TIMOTHY PICKERING.

—
TRENTON, Oct. 16, 1799.

SIR: I request you to order fair copies of the instructions, as corrected last evening, to be prepared and delivered to Judge Ellsworth and Governor Davie, with another for Mr. Murray, without loss of time; and to write a letter to those gentlemen as Envoys Extraordinary to the French Republic, expressing, with the affectionate respects of the President, his desire that they would take their passage for France, on board the frigate United States, Captain Barry, now lying at Rhode Island, by the 1st of November, or sooner, if consistent with their conveniences. Captain Barry will have orders to land them in any port of France which they may prefer, and to touch at any other ports which they may desire. The President's best wishes for their health and happiness, as well as for an honorable termination of their mission, will attend them. As their visit to France is one of the most critical, important, and interesting moments that ever has occurred, it cannot fail to be highly entertaining and instructive to them, and useful to their country, whether it terminate in peace and reconciliation or not. The President sincerely prays God to have them in his holy keeping.

I am, sir, with great respect and esteem, your faithful humble servant,

JOHN ADAMS.

T. PICKERING, Esq., *Secretary of State.*

The following are the instructions above referred to.

Instructions to Oliver Ellsworth, William Richardson Davie, and William Vans Murray, Esquires, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic.

GENTLEMEN: You have been witnesses of the enduring patience of the United States, under the unexampled aggressions, depredations, and hostilities, authorized and sanctioned by the French Republic against the commerce and citizens of the United States; and you are well informed of the measures adopted by our Government to put a stop to these evils, to obtain redress for the injured, and real peace and security to our country. And you know that, instead of relief, instead of justice for past wrongs, our very moderate demands have been immediately followed by new aggressions and more extended depredations; while our Ministers, seeking redress and reconciliation, have been refused a reception, treated with indignities, and finally driven from its territories.

This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce.

The treatment experienced by the former Envoys of the United States to the French Republic, having determined the President not to send thither other Ministers, without direct and unequivocal assurances previously signified by its Minister of Foreign Relations, that they would be received in character to an audience of the Directory, and that they should enjoy all the prerogatives attached to that character by the law of nations, and that a Minister or Ministers of equal powers should be appointed and commissioned to treat with them: the French Government, by Mr. Talleyrand, its Minister of Foreign Relations, has declared, "that it will receive the Envoys of the United States in the official character with which they are invested; and that they shall enjoy all the prerogatives attached to it by the law of nations; and that one or more Ministers shall be duly authorized to treat with them." This the President deems to be substantially the assurance which he required as the previous condition of the Envoys entering on their mission. It now belongs to you, gentlemen, to see that this assurance be verified. Your country will not submit to any new indignity or neglect. It is expected, when you shall have assembled at Paris, and have given official notice of it to the Minister of Foreign Relations, that you will be received to an audience of the Executive Directory; that a Minister or Ministers, with powers equal to your own, will be appointed to treat with you; and that within twenty days at furthest, after your arrival at Paris, your negotiation will be commenced. If, however, your passports to Paris should be unreasonably withheld; if an audience of the Directory should be denied or procrastinated; if the appoint-

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ment of a Minister or Ministers, with equal powers, to treat with you, should be delayed; or, if, when appointed, they postpone the intended negotiation; you are to relinquish your mission, demand your passports, and leave France; and, having once resolved to terminate the mission, you are not to resume it, whatever fresh overtures or assurances may be tendered to you by the French Government.

One more limitation: The subjects of difference between the United States and France have often been discussed and are well understood; and, therefore, admit of a speedy decision. The negotiation is expected to be concluded in such time that you may certainly embark for the United States by the 1st of next April. This is highly important, in order that on your return Congress may be found in session, to take those measures which the result of your mission shall require. If it can be earlier concluded it will be still better.

If any of the periods above mentioned should be prolonged with your assent, it is expected that the circumstances will be stated for your justification.

I. At the opening of the negotiation you will inform the French Ministers, that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained, by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal, when contrary to the law of nations generally received and acknowledged in Europe, and to the stipulations in the Treaty of Amity and Commerce, of the 6th of February, 1778, fairly and ingeniously interpreted, while that treaty remained in force; especially when made and pronounced.

1. Because the vessels' lading, or any part thereof, consisted of provisions or merchandise coming from England or her possessions.

2. Because the vessels were not provided with the *rôles d'équipage* prescribed by the laws of France; and which, it has been pretended, were also required by treaty.

3. Because sea letters or other papers were wanting, or said to be wanting when the property shall have been, or shall be, admitted or proved to be American. Such defect of papers, though it might justify the captors and exempt them from damages, for bringing in such vessels for examination, could not, with reason, be a ground of condemnation.

4. When the owners, masters, or supercargoes shall have been refused a hearing, or placed in situations rendering their presence at the trial impracticable.

5. When the vessels or other property captured shall have been sold, or otherwise disposed of, without a regular trial and condemnation.

Captures and condemnations for such causes, and under such circumstances, are manifestly irregular or illegal.

The French Government, if it has any serious wish to accommodate existing differences, can make no difficulty in admitting the general proposition, that, for injuries arising from violated laws and engagements, reparation shall be made. In every claim under this general stipulation, the question will occur, Has the treaty, or the law of nations, been violated?

But such a general stipulation will not be sufficient. The five specific propositions just stated are obviously proper rules of adjudication; but the previous admission of the first and second is vastly important, to remove from hazard the most interesting claims of our citizens.

To capture neutral property, because it was produced or manufactured in the country of an enemy to France, is so palpably unjust, that it seems improbable that even the men who originated the law, were they still in power, would persist in it as of right; and it is scarcely possible for their successors to hesitate on this point. To hesitate would be to doubt whether a man has a right to occupy his own house, or to wear his own clothes, unless he had built the first, or manufactured the last, with his own hands.

The second proposition respecting the *rôle d'équipage*, as well as the first, should be insisted on. Until the decree of the Directory of March 2, 1797, was passed, and we had felt its fatal effects, we had no idea of the meaning which the French applied to the phrase *rôle d'équipage*. In the Consular Convention between the United States and France, article ninth, which relates to deserters from vessels, the document is described in the French by the words "*des registres du bâtiment ou rôle d'équipage*," and in the English part of the Convention by the words "the registers of the vessel or ship's rolls." And this paper was to be produced to the proper judge, to prove a deserter to belong to the vessel in question. The law or usage of each nation was incontestably to direct what was proper for its own vessels in this respect. If an American master claimed from a judge in France his warrant to arrest a deserter, he must have produced his "ship's roll," or what in the United States is called his shipping paper, which is a contract signed by all the persons composing a vessel's crew. The propriety and necessity of a ship's roll was, in the year 1790, sanctioned and enforced by an act of Congress; and, without such a written contract, the master, besides being subjected to other disadvantages, could not claim his men when they deserted. This ship's roll every American master, bound on a foreign voyage, takes on board his vessel; and, unquestionably every American vessel, captured and condemned by the French for the want of a *rôle d'équipage*, has, nevertheless, been possessed of the ship's roll, just described; and it is the only list of the ship's crew, which could ever have been contemplated by the United States, as necessary for American vessels. There never was, indeed, any intimation on the part of France, from 1778, when the Treaty of Amity and Commerce was made, until the passing of the decree of the Directory, in March, 1797, that a *rôle d'équipage*, other than the ship's

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roll, or shipping paper, would be required. It was then suddenly demanded; and the decree (like the law of January, 1798, respecting articles of the produce or manufacture of Great Britain,) was instantly enforced, and became a snare to the multitudes of American vessels, which, for want of previous notice, would not have on board the document in question, if their Government should permit them to receive a document which they were under no obligation to produce. For it cannot, with any semblance of justice, be pretended that the vessels of one nation are bound to furnish themselves with papers in forms prescribed by the laws of another. And if we resort to the treaty of 1778, or to the sea-letter or passport annexed to it, on which letter the Directory pretended to found their decree concerning the *rôle d'équipage*, we shall see that these words are not to be found in either; and, although the passport mentions "a list signed and witnessed, containing the names, surnames, the places of birth, and abode of the crew of his [the neutral master's] ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine;" yet, instead of being obliged "to have the list on board," the passport declares, that "he shall enter it in the proper office;" and all that the treaty requires him to exhibit at sea is the sea-letter, or passport. In a word, whatever is said about the *rôle d'équipage*, in the French application of the phrase, has relation to the laws and usages of France. It was to be exhibited to the officers of the marine; but the United States have not, nor ever had, like France, any such description of officers, employed in the examination and clearing of vessels and their crews, prior to their going to sea; and the Directory, if they had wanted pretences for despoiling our commerce, might as well have made the omission of appointing marine officers in our ports, to whom, according to the letter of the passport, the *rôle d'équipage* was to be exhibited, a cause of capture and condemnation, as the omitting to furnish them with *rôles d'équipage* in the French form. In preparing, in 1793, the sea-letter for American vessels, the Secretary of State, Mr. Jefferson, changed, in divers places, the letter of the passport, substituting other words applicable to us; and for "officers of the marine," "officers and judges of the marine," which words were descriptive of French institutions, using only the phrase "proper officers," in conformity with our own. In the same manner, the "ship's roll," or shipping paper of the United States, if at all required, should have been respected by France, as her *rôle d'équipage* would have been respected by the United States. And, after all, what was the real object of the sea-letter, (in which alone there is any reference to a list of the crew,) and what was it substantially to express? The twenty-fifth article of the treaty of 1778 informs us, "in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally, must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and habita-

tion of the master or commander of the said ship, "that it may appear thereby that the ship really and truly belongs to the subjects of one of the parties;" and with this further view, "that all manner of dissensions and quarrels might be avoided and prevented;" for, as was declared in the twenty-seventh article, when a ship of the party remaining neutral, met with by a ship of the other party, had shown her sea-letter or passport, she was to "be free and at liberty to pursue her voyage, so as it should not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course."

It also merits observation, that, according to the tenor of the sea-letter or passport, in every port or haven where he (the neutral master) should enter with his ship, he is required to show, not a *rôle d'équipage*, but his passport. Yet this passport, made and intended by the Governments of France and the United States, in 1778, to facilitate and protect their commerce, to exempt it from vexations, and to prevent dissensions and quarrels, has, by the Government of France, been converted into a fatal snare, an engine of mischief, producing quarrels, dissensions, vexations, and, to the commerce of many American citizens, absolute destruction.

II. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a Board of Commissioners similar to that described in the sixth and seventh articles of the Treaty of Amity and Commerce between the United States and Great Britain.

The Commissioners of the two nations may first meet at Paris. In choosing the fifth Commissioner, they will have a right to propose a Frenchman or an American. But it might conduce to more satisfactory results if the fifth Commissioner were a foreign civilian, eminent for his learning, talents, and integrity.

Three of the Commissioners may constitute a board, provided one named on each side and the fifth Commissioner be present. The four Commissioners, in the absence of the fifth, may also constitute a board; and, in each case, the decisions of a majority are to be valid. But, when on any questions, the four Commissioners, in the absence of the fifth, shall be equally divided, such questions are to be re-examined and decided in the presence of the fifth Commissioner. Further, in absence of the fifth Commissioner, any three of the other Commissioners may constitute a Board, and their decisions valid in cases where they are unanimous.

The salaries of the Commissioners, the expense attending the commission, and the supplying of vacancies in it, may be regulated in the manner proposed in the eighth article of our Treaty of Amity and Commerce with Great Britain.

The Commissioners should be appointed and meet at Paris, within six months after the ratifications of the treaty by the respective Governments, and as much sooner as may be.

Claims may be presented to the Board during

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two years, commencing with the day on which the Commissioners shall first assemble to proceed to business; and, in particular cases, in which it shall appear to them reasonable and just, they may extend the time of receiving claims to any reasonable term after the expiration of the two years.

All sums which the Board may award to American claimants, France should stipulate to pay in gold and silver, without any deduction, at such place or places, and at such time or times, as the Commissioners shall appoint. The awards should comprehend a reasonable allowance of interest on the amount of the original losses and damages, or, instead of prompt payment, the whole may constitute a transferable capital, bearing interest until the debt be discharged.

The Board should also take cognizance of the claims which may be presented to them by American citizens for merchandise, or other property, seized by the French in their own ports or elsewhere, and not comprehended under the head of captures; and for their vessels arbitrarily and unreasonably detained in French ports, and for the losses and damages thereby sustained, the Board should award equitable compensations, to be paid in the manner prescribed in the case of captures.

The claims of the United States, as distinguished from those of their citizens, for injuries received from the French Republic, or its citizens, should be submitted to the same Board; and whatever sums they award, France should stipulate to pay, in the manner before mentioned, in the case of captures.

As the French Government have heretofore complained of infringements of the Treaty of Amity and Commerce by the United States, or their citizens, all claims for injuries thereby occasioned to France, or its citizens, are to be submitted to the same board; and whatever damages they award, will be allowed by the United States, and deducted from the sums awarded to be paid by France.

If, however, the French Government should desire to waive its national claims, you may do the like on the part of the United States. Doubtless the claims of the latter would exceed those of the former; but, to avoid multiplying subjects of dispute, and because *national* claims may probably be less definite than those of *individuals*, and consequently more difficult to adjust, national claims may, on both sides, be relinquished.

All claims for sums due to American citizens, by contracts with the French Government or its agents, which may be presented to the Board, France should stipulate to pay within the shortest periods possible to obtain, with interest, at the rate or rates agreed on; or, if no agreement about interest appears, then at the rate to be fixed by the Board, and from the times when the sums were respectively payable by contract. This also may be transferable stock.

The questions about interest, and any other questions which may arise out of the claims founded on contracts, not explicitly determined by the treaty, may be left to the decision of the Board of Commissioners.

III. If the preceding claims shall be duly attended to, and adequate arrangements made for adjusting and satisfying them, you will then turn your thoughts to the regulation of navigation and commerce, and to some other points interesting to the two nations.

IV. It may be stipulated that there shall be a reciprocal and entirely perfect liberty of commerce and navigation between France and the United States, and their territories and dominions, in every part of the world; but without admitting the vessels of either country into the rivers of the other beyond the highest ports of entry from the sea.

With the usual policy of European nations, France may object to the free admission of American vessels into the ports of her colonies. But the singular injuries our commerce has sustained from France, during the present war, which no payments to be made by her, under the preceding stipulations, can ever fully compensate, plead for an entire liberty of trade with her colonies, at least during the term of the proposed treaty, and until the stipulated compensations shall actually have been made. Another reason will naturally operate in favor of this claim; the inability of France immediately to furnish the requisite navigation and supplies for the commerce of her distant possessions.

But if France will not allow us a trade with her colonies on the terms which may be agreed in respect to the parent State, we should be silent on the subject. The commerce of all our territories will be open to France; that of all her dominions should be alike open to us. At any rate, it appears inexpedient for the United States to countenance injurious distinctions respecting colonial commerce, to obtain a share in it by agreeing to allow a price for it in the payment of extra duties. Neither ought we to stipulate anything like what is contained in the last clause of the third article of our treaty with the United Netherlands. Such an engagement would be a species of guaranty of the colony system. It is sufficient for the United States to treat foreign nations with justice and friendship.

V. It may be stipulated that no other or higher duties shall be paid by the ships or merchandise of one party in the ports of the other, than such as are or shall be payable by the like vessels or merchandise of all other nations: that no other or higher duties shall be imposed in one country on the importation of any articles which are the growth, produce, or manufacture of the other than are or shall be payable on the importation of the like articles being of the growth, produce, or manufacture of any other foreign country; and that no prohibition shall be imposed on the exportation or importation of any articles from or to the territories of the two parties, respectively, which shall not equally extend to all other nations.

And for the information of their respective fellow-citizens, and to prevent abuses, it may be stipulated that the Consuls of each nation shall be officially furnished in the other with tariffs of all imposts, customs, duties, and charges; by which

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tariffs the demands of the officers of each nation may be respectively limited.

VI. The freedom of navigation and commerce here proposed will require the admission of the citizens of the two countries respectively into the dominions of the other, with liberty to reside there, to hire and possess houses and warehouses for the purposes of their commerce, and complete protection and security for the merchants and traders on each side, with their property, whether in going to, residing in, or returning from, the country of the other. Nor should they be liable to any tax on their persons or property, to which the natives are not equally subject. They should be at liberty to manage their own affairs, without being obliged to employ any factor, broker, or interpreter, or any persons to load or unload their vessels; with a right, however, to employ any or all of them, as well as advocates and attorneys, at their pleasure.

VII. The merchants and others of one nation residing in the other, should have liberty to dispose of their property by testament, or otherwise, including real estates already acquired; and, if dying intestate, their heirs should enjoy the right of succession. Provided that, if the laws of either country should at the time be incompatible with such transfer or inheritance of real estates by aliens, they may be sold or otherwise disposed of to citizens of the two countries respectively. The citizens of the United States should not, in respect to their property, be considered as *aubains* in France; and, consequently, should be exempted from the *droit d'aubain*, or other similar duty.

VIII. The mutual residence of citizens of the two nations in the countries of each other necessarily requires the free exercise of religion, at least in their own houses, and in their own way; and permission to bury the dead in convenient places.

IX. If debtors flee from one country to the other, the creditors should be allowed to pursue them, and have the benefit of the laws of the country to which they flee, in the same manner as if the debts had been there contracted.

X. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares nor moneys which they may have in the public funds, or in the public or private banks, should ever, in any event of war or national differences, be sequestered or confiscated.

XI. The ships of the citizens of the respective countries coming upon any coasts belonging to either, but not willing to enter into port; or, being entered into port, and not willing to unload their cargoes or break bulk; they should be treated according to the general rules prescribed, or to be prescribed, relative to the object in question.*

XII. Neither party should permit the ships or goods belonging to the citizens of the other to be taken within cannon shot of the coast, nor elsewhere within their jurisdiction, by ships of war or others having commission from any Prince, Republic, or State whatever. But if such capture

or other injury should happen, the party whose territorial rights are thus violated should use his utmost endeavors to obtain from the offending party full and ample satisfaction for the capture or other injury so committed. The just freedom of commerce, and the interest and dignity of the neutral nation, demand the protection of all vessels entering its ports, not only from being taken, but from being pursued within its jurisdiction, or immediately after their departure from its ports; therefore, their enemy, finding an asylum in those ports, should not be permitted to leave the same until the lapse of twenty-four hours after such departure.

XIII. No asylum should be given to pirates; vessels and property rescued from their hands should be restored to the proper owners; the pirates, and any who conceal or assist them, should be brought to condign punishment; all with the precautions customary in such cases.

XIV. The ships of war and other public vessels of each party should at all times be hospitably received in the ports of the other; their officers and crews paying due respect to the laws and government of the country.

XV. In case the citizens of either party with their private shipping, armed or unarmed, be forced through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, to seek for shelter in the ports of the other, they should be received and treated with humanity, and enjoy all friendly protection and assistance.

XVI. In the case of vessels wrecked, foundered, or otherwise damaged, they should receive in each country the same protection and assistance as if they belonged to the inhabitants of the country on whose coasts the misfortune should happen.

XVII. Each party may appoint Consuls for the protection of trade, to reside in the dominions and territories of the other, including colonies as well as the mother country: for wherever trade is permitted, there the assistance and protection of Consuls is necessary. If a Consul be sent to a colony, his provisional admission by the colonial government might suffice until the pleasure of the national government should be known. The Consuls may enjoy the rights and liberties which belong to them by the law of nations.

XVIII. Deserters from public and private vessels should be delivered up, and the laws of each country make suitable provision for that purpose. The merchants and commanders of vessels, public and private, of one nation, in the country of the other, may engage and receive on board seamen or others, natives or inhabitants of the country to which the vessels belong: Provided that, either on one side or the other, they may not take into their service such of their countrymen (not deserters) who have already engaged in the service of the other party, whether in war or trade, and whether they meet them by land or sea; at least if the captains or masters under whose command such persons may be found, will not voluntarily discharge them from their service. Not only the original enlistment, shipping paper, or *rôle d'équipage*, but a copy, duly certified by a

* See section 60, new collection law.

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judge of the country, may be admitted in proof of desertion.

XIX. It may be agreed, that, on mutual requisitions by the respective Ministers or Consuls of the two nations, persons charged with murder or forgery committed within the territorial jurisdiction of one, and fleeing to the other, shall be delivered up.

XX. It may be agreed that neither party shall intermeddle in the common fisheries on the coasts of the other party, nor disturb the other party in the exercise of the rights which either now holds, or may acquire, of fishing on the banks of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States of America: but that the whale and seal fisheries may be freely exercised in every quarter of the world.

XXI. The seventh and twenty-second articles of the Commercial Treaty between the United States and France, of February 6, 1778, have been the source of much altercation between the two nations during the present war. The dissolution of that and our other treaties with France leaves us at liberty with respect to future arrangements; with the exception of the now preferable right secured to Great Britain by the twenty-fifth article of the Treaty of Amity and Commerce. In that article we promise mutually that, while we continue in amity, neither party will in future make any treaty that shall be inconsistent with that article or the one preceding it. We cannot, therefore, renew with France the seventeenth and twenty-second articles of the Treaty of 1778. Her aggressions, which occasioned the dissolution of that treaty, have deprived her of the priority of rights and advantages therein stipulated. Indeed, if the public faith pledged in the British Treaty did not forbid a renewal of those engagements with France, sound policy should prevent it. We should preserve to ourselves the right of allowing every commercial nation in amity with us the like shelter, supplies, and assistance, under like circumstances; and, by excluding all equally when engaged in war, (saving to each the rights of humanity and hospitality,) we may keep the calamities of war at a distance. The engagements with Great Britain may cease in two years after the close of the present war: but, under the stipulations contained in the twenty-eighth and last articles of the British Treaty, the engagements in question may be continued to a longer period. If, therefore, you should find any cogent reasons for renewing in substance the seventeenth and twenty-second articles of the Commercial Treaty with France of 1778, it must be with the explicit declaration that neither at the present or any future time, shall the said articles be construed to derogate from the whole or any part of the twenty-fourth and twenty-fifth articles of the Treaty of Amity, Commerce, and Navigation between the United States and His Britannic Majesty, concluded at London on the 19th of November, 1794.

XXII. The present war has exhibited such inconveniences and mischiefs in our own country, and such monstrous abuses elsewhere, by trials,

or pretended trials, and sales of prizes, by French Consuls and agents: in order to prevent any claim to the exercise of such powers, it will be expedient expressly to declare they shall not be exercised in the United States; whether the prizes are made by public ships or privateers. There will, of course, be a reciprocal denial of the exercise of the like powers by American Consuls and agents in the dominions of France. Prizes ought to be conducted to the country to which the captors belong, unless the two parties are engaged in hostilities against a common enemy. But, in this case, the established courts for prize causes in the country to which the prizes are conducted should alone take cognizance of them.

XXIII. The duties of an impartial neutrality, when either party shall remain neutral, will forbid any permission to the enemies of the other to arm originally, or to increase a former armament, in the ports of the neutral party.

XXIV. When one of the parties shall be engaged in war, the vessels of the other may be captured on just suspicion of having on board property belonging to the enemy of the former, or of carrying to the enemy any of the articles which are contraband of war. With these exceptions, the trade of each party to the ports of the enemies of the other should be perfectly free, unless to the ports actually blockaded; and if such enemies forbear to capture enemies' property in neutral vessels, it may be agreed that in such case, the contracting parties will forbear to capture the vessels of each other for that cause. The law of France of the 18th of January, 1793, respecting produce or manufactures coming from England or her possessions, is incompatible with the stipulation here proposed, and, if not repealed, negotiations with you must be deemed illusory.

But that captures on light suspicions may be avoided, and the vexations and injuries thence arising prevented, the usual stipulations for sea-letters or passports, and certificates or manifests of the cargoes of vessels, may be introduced. But neither party should be allowed to prescribe the form, or to require the exhibition of any document (the sea-letter and certificates before mentioned excepted) not required by the laws or usages of the party to whose citizens the vessels and their cargoes belong. The form of the sea-letter should be simple, like that now used by the United States, in that part of the passport which is printed in the English language.

When the quality of the ship, goods, and master, shall sufficiently appear from the sea-letter and certificates, the commanders of armed vessels should exact no further proof. And if any merchant ship be not provided with a sea-letter or certificates, the case should be examined by a proper judge; and if it be found, from other proofs and documents, that the vessel truly belongs to the citizens of one of the parties, it should not be liable to confiscation, but be released with its cargo, with the exception of enemies' property and contraband goods which may be found on board. The change of the master not to invalidate the passport.

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XXV. The following articles, beyond the quantities proper for the ship's use, may be deemed contraband of war: cannon, mortars, their carriages and beds, muskets, petards, match, ball, bombs, grenades, carcasses, cartridge-boxes, gunpowder, saltpetre, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, and, generally, all kinds of arms and warlike instruments fit for the use of troops; and all these articles may be declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy; but the vessel in which they are laden and the residue of the cargo to be free. France will probably not desire to extend further the use of contraband, and especially not to comprehend timber for ship building, naval stores, and other articles for the equipment of ships. If, however, she urges an extension, then timber for ship building, tar, pitch, turpentine, rosin, copper in sheets, sails, and sail cloth, hemp and cordage, may be added; and, generally, whatever may serve directly and principally for the equipment of vessels. But iron in pigs and bars, timber for house frames, pine or fir planks and boards, staves, nails suitable for house building, coarse linens, and, generally, all other articles which, though occasionally or from necessity applicable to the equipment of ships, are not directly and principally prepared for that purpose.

It is also probable that France will not desire to consider provisions as contraband, unless going to a place actually blockaded, and we ought strenuously to resist any other construction; but if what is said on this subject in the eighteenth article of our commercial treaty with Great Britain should induce France seriously and with earnestness to demand the like stipulation, it may be conceded; yet a modification may first be attempted, by proposing not only that if provisions be captured, they shall be promptly paid for, with a reasonable mercantile profit, freight, and demurrage, but that they shall not be captured at all unless going to a place actually blockaded, or to supply an invading army or hostile fleet, though in situations not actually forming an investment or blockade.

XXVI. If, on the exhibition of the certificates or manifests of a ship's cargo, the property of an enemy, or contraband goods, be discovered, and the ship be consequently captured and carried into port, provision must be made to prevent embezzlement, waste, and destruction.

But there is a very common regulation to prevent disorder and injury in stopping and examining neutral ships, which certainly is disregarded in practice, viz: That the examining ship shall not approach the neutral within cannon shot, while her boat is sent to make the examination. It is a rule which would produce both inconvenience and delay, and in bad weather be impracticable, or very dangerous. The provision that only two or three men shall enter the neutral vessel is very proper, though, like many other salutary regulations, is not enforced by penalties on offenders. But instead of visiting the neutral, the other often requires the neutral to send an officer

with his papers. This is an abuse; and many instances have occurred in the present war, in which it has been practised with great inhumanity, and most when it was most inhuman—in tempestuous weather, when a boat could not be put out, but with imminent danger of the lives of the men. It will therefore be very well to stipulate that the neutral party shall in no case be required to go on board the examining vessel. And if this should in any cases prevent an examination, it can afford no just ground of complaint; for *prima facie*, better is the right of the neutral than of the belligerent vessel. Besides, the stipulation would be reciprocal.

XXVII. The usual stipulations in treaties, designed to prevent abuses by armed vessels, have ever been found inadequate; perhaps they do not admit of a complete remedy. If, however, any nation does not provide penalties and securities, whereby to restrain offenders and indemnify the injured, the nation itself ought to be responsible. Doubtless, the nation should be immediately responsible for all abuses committed by national ships.

One abuse is the destruction or concealment of papers of captured vessels. A remedy for this seems practicable: the captors may be obliged to give a receipt for them upon a list of the papers; and they may also be sealed up with the seals of the captors and captured.

The master and supercargo, being entrusted by the owners with the vessel and cargo, ought never to be separated from them. They may prevent waste and embezzlement, and, on the arrival of the vessel, will be ready for examination; and, also, to claim the property in behalf of the owners, and contest, as of right they may do, the legality of the capture.

Bribery, or an attempt to bribe any one of the ship's company or passengers to depose to any fact tending to the condemnation of vessel or cargo, or putting any of them to torture for that or any other purpose, should absolutely procure her acquittal.

But a still greater evil remains, and more difficult to remedy—the improper institution of prize courts. Probably no provision can be explicitly made, other than that each party will take effectual care that the judgments and decrees in prize causes shall be given, conformable to the rules of justice and equity, and the stipulations of the treaty, and without any unnecessary delay, by judges above all suspicion, and who have no manner of interest in the cause in dispute. It would be some check on the judges in prize causes if their reasons for condemning were required to be stated, with the other proceedings, in writing; and copies of the whole should, if demanded, be delivered to the commander or agent of the captured vessel without the smallest delay, or, at furthest, within fifteen days after sentence pronounced, and sooner if practicable, and at the expense of the captors, (in case of condemnation,) not of the captured, who are otherwise sufficiently distressed.

Prizes, as already observed, should be conducted into the ports of the party at war, or of an asso-

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ciate in the war, and there adjudicated by the regular tribunals. The French have conducted their prizes into neutral as well as belligerent ports; and, when there was no Consul to try and condemn, leaving there the prizes, they have carried the papers to a distant place to find a French tribunal; and there, in the absence of the captured party, procured sentences of condemnation, and sold the prizes. The same mode of obtaining condemnation has been uniformly practised when they carried their prizes into the ports of an associate in the present war. But, without waiting for the result of this farcical trial, it has been common to unlade and sell the cargoes as soon as they reached a port.

An unreasonable burden is imposed on the captured, in requiring them, if they think proper to appeal to a higher tribunal, to find sureties in large penalties, which, as strangers, it is impossible to procure. This evil demands redress.

The crews are often stripped of their property, and even of their clothes, and turned ashore without money or provisions. Such inhuman pillage is disgraceful to the nation which permits, or does not, by adequate punishments, restrain it. The masters, supercargoes, other officers and seamen, should be allowed certain sums; the former to employ counsel to support their claims to the property captured, and also for their subsistence; and the seamen might have an adequate allowance of good provisions until they could find vessels returning to their own country. To admit masters and supercargoes into the courts to defend the property captured, when they have been previously stripped of their money, and all means of providing the legal assistance essential to a right defence, is to tantalize with the semblance of justice, while the substance is denied.

XXVIII. If vessels of either party sail for a place actually blockaded by the other, without a previous knowledge of the blockade, every such vessel may be turned away, but not detained, nor her cargo, if not enemy's property, nor contraband, be confiscated, unless, after notice, she shall again attempt to enter. Nor should any vessel that may have entered prior to the blockade, be restrained from quitting such place with her return cargo; nor, if found there after the reduction of the place, should they be liable to any injury.

XXIX. If a war should break out between the two nations, six months after the proclamation thereof may be allowed to the merchants and others of each nation, residing in the dominions of the other, for selling and transporting their goods and merchandise. And if, during that term, any thing be taken from them, or injury done them, by either party, or the citizens or subjects of either party, full satisfaction should be made.

XXX. The articles of the treaty which you may conclude, as far as they respect compensation and payment for past injuries and contracts, should be permanent, until the objects thereof be fulfilled. So likewise the article to prevent the sequestration or confiscation of debts, and shares or moneys in the public funds, or in public or private banks, should endure, while on either side

there is a subject on which to operate. The other articles of the treaty should terminate in ten or twelve years; a period as long as they will be likely to be mutually satisfactory.

The following points are to be considered as ultimated:

1. That an article be inserted for establishing a board, with suitable powers, to hear and determine the claims of our citizens, for the causes hereinbefore expressed, and binding France to pay or secure payment of the sums which shall be awarded.

2. That the treaties and consular convention, declared to be no longer obligatory by act of Congress, be not in whole or in part revived by the new treaty; but that all the engagements, to which the United States are to become parties, be specified in the new treaty.

3. That no guaranty of the whole or any part of the dominions of France be stipulated, nor any engagement made, in the nature of an alliance.

4. That no aid or loan be promised in any form whatever.

5. That no engagement be made inconsistent with the obligations of any prior treaty; and, as it may respect our Treaty with Great Britain, the instruction herein marked XXI, is to be particularly observed.

6. That no stipulation be made granting powers to Consuls or others, under color of which tribunals can be established within our jurisdiction, or personal privileges be claimed by Frenchmen, incompatible with the complete sovereignty of the United States in matters of policy, commerce, and Government.

7. That the duration of the proposed treaty be limited to twelve years, at furthest, from the day of the exchange of the ratifications, with the exceptions respecting its permanence in certain cases, specified under the instruction marked XXX.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, Oct. 22, 1799.

List of books and papers, delivered to Governor Davies for the use of the Envoys to the French Republic.

1. Chalmers's collection of Treaties between Great Britain and other Powers, 2 vols.

2. Complete copy of the Laws of the United States, 4 vols.

3. Correspondence between Mr. Jefferson, Secretary of State, and the French Minister, Mr. Genet, 1 vol.

4. Letter from T. Pickering, Secretary of State, dated January 16, 1797, to General Pinckney, Minister from the United States to the French Republic, with an appendix, containing correspondences with the French Ministers, Fauchet and Adet, 1 vol.

5. Documents (including General Pinckney's information of his mission) laid before Congress, the 16th of May, 1797, 1 pamphlet.

6. Instructions to, and proceedings of, the late Envoys, Pinckney, Marshall, and Gerry, 3 copies.

7. Mr. Gerry's letter of October 1, 1798, and correspondence with M. Talleyrand, 3 copies.

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8. French originals of Mr. Talleyrand's communications, 3 copies.

9. Report of T. Pickering, Secretary of State, on Mr. Gerry's letter and communication, 3 copies.

10. Report of T. Pickering, Secretary of State, on French spoliations, laid before Congress, February 27, 1797, 1 copy.

11. Report of further spoliations, received September 6, 1798, from General Pinckney, manuscript.

12. Letter dated 12th May, 1799, from M. Talleyrand to Mr. Murray, containing *the assurances*.

13. Letter of credence to the French Directory, sealed with the seal of the United States.

14. One copy of the letter of credence.

15. Three sets of instructions for negotiating with the French Republic.

16. Form of the passport, or sea-letter, annexed to the treaty of February 6, 1798.

17. Printed sea-letter in four languages, as now used in the United States.

18. Papers on the affairs of St. Domingo: 1. Letter from General Toussaint, to the President of the United States, dated November 6, 1798; 2. Answer to ditto, from the Secretary of State, March 4, 1799; 3. Letter of instructions to Edward Stevens, Esq., Consul General, and marked No. 1, March 7, 1799; 4. Letter to Edward Stevens, Esq., No. 2, April 20, 1799; 5. Heads of regulations and points understood between the Governments of Great Britain and the United States; 6. Letter to Edward Stevens, Esq., No. 3, May 9, 1799; 7. Letter to Edward Stevens, Esq., No. 4, June 1; 8. Letter to Edward Stevens, Esq., No. 5, July 5; 9. President's proclamation for opening trade with St. Domingo.

19. Letter to General Desfourneaux, agent of the French Directory at Guadaloupe, declaring the terms on which trade might be opened with that island.

20. Letter of instructions to Samuel Cooper, Esq., sent to the Isle of France to propose terms for opening trade with that island.

21. Letter from Fulwar Skipwith, late Consul General of the United States at Paris, dated January 23, 1799, enclosing a letter from Mr. Talleyrand, dated 12th December, 1798, on the *rôle d'équipage*.

22. A cipher, for secret correspondence with the Department of State.

23. Personal passports for Judge Ellsworth and Governor Davie.

24. Passport for the frigate United States.

25. Letter to Judge Ellsworth and Governor Davie, mentioning the names of Consuls and agents of the United States in Spain, Portugal, and France.

Mr. Ellsworth and Mr. Davie sailed from Newport, Rhode Island, on the 3d of November, having agreed to touch at Lisbon, before they made any port of France; arrived there on the 27th of November. Information of the revolution at Paris of the 18th Brumaire had just been received, and it was therefore thought expedient to remain long

enough at that place to form some judgment of the consequences of that change in the French Government. Upon a conference on the 6th of December, the Envoys resolved on the measures detailed in the following letter to the Secretary of State:

LISBON, December 7, 1799.

SIR: We arrived at this place on the 27th ultimo. The late change in France, the circumstances of which we are informed will be fully detailed in Mr. Smith's despatches, and our desire to obtain a more accurate knowledge of the features and effects of this revolution before we entered that country, would have induced us to land in Holland, where we might join Mr. Murray, and be in a better situation to govern ourselves by circumstances; but Captain Barry apprehends it would hazard the frigate to attempt any port in Holland at this season of the year; we have, therefore, determined to sail immediately for L'Orient.

From L'Orient we shall probably proceed to Paris, if we can be satisfied that our present letters of credence will avail us. You will doubtless consider, sir, of the expediency of sending us, with your first despatches, other letters of credence addressed to the Supreme Executive of France, or in a manner more particular, which may introduce us, if necessary, or sanction the progress we have made. We have the honor, &c.,

OLIVER ELLSWORTH,
W. R. DAVIE.

HON. TIMOTHY PICKERING,
Secretary of State.

Mr. Ellsworth and Mr. Davie, being detained nine days by contrary winds, sailed on the 21st of December for L'Orient; a succession of heavy gales and continued bad weather then rendering it apparently impracticable to reach that place, they authorized Captain Barry to make any port in France or Spain, and arrived at Corunna on the 16th of January, and the next day sent the following letter to Ch. M. Talleyrand, Minister of the Exterior Relations of the French Republic, by a special courier:

CORUNNA, January 17, 1800.

The undersigned, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, have the honor to inform you of their arrival at this port, after a lapse of ten weeks since their leaving America, and the loss of four in a fruitless attempt to get from Lisbon (where they touched) to L'Orient. From hence they will proceed immediately to the confines of France by land.

As they left the United States early in November, their letters of credence are, of course, addressed to "the Executive Directory of the French Republic." This circumstance being a matter of mere formality, they are induced to suppose that no objection will arise out of it, and that their letters of credence will have the same effect as they would have under an address adapted to the present distribution of the powers of the French Republic. Should the Government view this cir-

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cumstance in the same light with the undersigned, they then request that passports may be granted for them and their suite to Paris, and that they may be forwarded by the courier charged with these despatches; and also that there may be granted, and that you would have the goodness to transmit, together with their letter to him, a like passport to William Vans Murray, Esq., at the Hague, who is joint Envoy Extraordinary and Minister Plenipotentiary, as before mentioned, with them. They pray you, sir, to accept the assurances of their high respect,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

MINISTER OF FOREIGN RELATIONS, &c.

The following is the letter forwarded to William Vans Murray, Esq., mentioned in the above

CORUNNA, *January 17, 1800.*

DEAR SIR: We enclose to you a copy of our note to the Minister of Foreign Relations of the French Republic, from which you will learn our situation, and the steps we have taken to facilitate your progress and ours to Paris, where we hope soon to meet you for the accomplishment of a business which we all have so much at heart. Your letter of credence and your instructions are with us. With much respect and esteem, we are, dear sir, your obedient servants,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

WILLIAM VANS MURRAY, Esq.

The above Envoys, in pursuance of the plan which they had adopted of going to Paris by land, left Corunna on the 24th of January, and arrived at Burgos on the 9th of February, where they met the courier returning from Paris, with the following answer from the Minister of Exterior Relations:

PARIS, *11th Pluviose, (30th January,)
8th year of the French Republic.*

GENTLEMEN: I have received the letter dated at Corunna, which you have done me the honor to write. I regret exceedingly that an unpleasant and protracted voyage has so long delayed your arrival in France. You are expected with impatience and will be received with warmth. The form which has been given to your letters of credence will occasion no obstacle to the opening of a negotiation, from which I dare anticipate the happiest results. No time will be lost in transmitting to Mr. Murray the letter intrusted to my care, to which will be added the necessary passports. The requisite passports will also be forwarded to you. Agreeably to your desire, I confide this packet to the courier whom you have despatched.

Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

Messrs. ELLSWORTH and DAVIE,
Envoys, &c., of the United States.

Captain Barry having received directions from the Envoys to wait the return of the courier to Corunna, in order to take their despatches for the Government, the following letter was written to the Secretary of State:

BURGOS, *February 10, 1800.*

SIR: We have the pleasure to enclose to you a copy of our letter No. 1, dated at Lisbon, and forwarded from St. Ubes. We were detained in the Tagus by contrary winds till the 21st of December, when we sailed for L'Orient, under the expectation of making that port in seven or eight days; but, on the 24th, we encountered a severe gale, which blew with little intermission until the 2d of January, at which time it was ascertained that we had drifted as far as latitude 50, and to the west of Cape Clear. Observing that Captain Barry was extremely apprehensive of approaching any part of the French coast, on the Bay of Biscay, in bad weather, and as so much time had been already lost, we directed him to land us in any port of France or Spain that he could make with safety and convenience; he thought proper to choose the port of Corunna, and anchored in the Bay of Ares, a few leagues from that place, on the 11th of January. Being anxious to make the necessary preparations for our journey to Paris, and the wind continuing unfavorable for the sailing of the frigate to Corunna, we landed at the village of Puente d'Eume, and immediately after our arrival at Corunna, despatched a courier to Paris, with a letter addressed to the Minister of Foreign Relations, desiring the necessary passports, (a copy of which is enclosed, marked A.) covering also a letter to Mr. Murray, a copy of which (marked B.) you will receive under this enclosure.

The necessary arrangements were made to meet the courier at Burgos, or Victoria, and he fortunately reached this place yesterday, a few hours before our arrival, charged with the despatches (marked C.) from Ch. M. Talleyrand, Minister of Exterior Relations, enclosing the passports requested in our letter written at Corunna.

We regret exceedingly the time that must be consumed in a long and tedious journey by land, in the most rigorous and unfavorable season of the year; but after the ineffectual attempt to go to L'Orient by water, this measure appeared indispensable, notwithstanding any difficulties with which it might be connected. We expect to leave this place to-morrow, and flatter ourselves with the hope of arriving in Paris about the first of March. We have the honor to be, &c.,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

HON. TIMOTHY PICKERING,
Secretary of State.

The Envoys set out from Burgos on the 11th of February, and, taking the route by Bayonne, arrived in Paris on the 2d of March, where Mr. Murray had also arrived the preceding day.

The following was delivered by Mr. Murray, as an extract from his journal:

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Mr. Semonville, the French Minister at the Hague, called on me on the 4th of February, and delivered to me a packet from Mr. Talleyrand, containing a passport, a letter from my colleagues Mr. Ellsworth and Mr. Davie, dated at Corunna, and the following letter:

PARIS, 11th *Phiviose*, (30th January),
8th year of the French Republic.

SIR: I have received information that the Plenipotentiaries of the United States, after a long and difficult voyage, have arrived at Corunna. They have forwarded to me the enclosed letter, which I hasten to transmit to you. I avail myself of this occasion to enclose a passport, which may be necessary on your repairing to Paris. While indulging the hope that you will speedily join your colleagues, I felicitate myself upon the prospect that the time will soon arrive, when, by a frank and full discussion, a termination will be put to the difficulties existing between the Republic of France and the United States, and when the two nations will be restored to that friendly and harmonious intercourse which ought never to have been suspended. Receive, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

To Mr. MURRAY,
Envoy, &c., of the U. S. at the Hague.

To which I returned the following answer:
THE HAGUE, February 4, 1800.

CITIZEN MINISTER: Mr. Semonville, the Minister Plenipotentiary of the French Republic, had the goodness to-day to deliver to me himself the letter of the 31st ultimo, which you did me the honor to write, enclosing passports for myself, family, and baggage, and a letter from my colleagues, Mr. Ellsworth and Mr. Davie; accept my thanks for this communication.

I shall immediately prepare for my new destination, one from which I now permit myself to hope a restoration of that harmony which certainly ought not to have been so cruelly interrupted.

May I ask a repetition of an act of politeness in requesting that the enclosed may be delivered to my colleagues, who I hope will be in Paris immediately. Accept, Citizen Minister, the assurance of my high consideration.

W. V. MURRAY.

To CITIZEN TALLEYRAND,
Minister, &c., of the French Republic.

On the 10th, I requested personally of Mr. Vemder Goes, the Minister of Exterior Relations, an audience of leave. This was fixed for the 13th, when I took a temporary leave of the Batavian Directory, and on the 17th set out for Paris.

The severity of the season, and a two days' illness of Mrs. Murray on the road, prevented me from making a journey, generally made in five days, in less than thirteen. On Saturday evening, the 1st March, I arrived at Paris, and the next day had the pleasure of seeing Mr. Ellsworth and Mr. Davie arrive,

MARCH 3d.

The following note was addressed to the Minister of Exterior Relations:

PARIS, 3d March, 1800, and of the
Independence of the U. S. the 24th.

CITIZEN MINISTER: The undersigned, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, have just met at this city, and request the favor of you to inform them at what time it may be convenient to you to receive a visit from them.

Accept, Citizen Minister, the assurance of their high consideration.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To Citizen TALLEYRAND,
Minister of Exterior Relations, &c.

The following notes were received from the Minister, in answer to the above, and the demand verbally made by the Envoys of being formally received by the Premier Consul:

The Minister of Exterior Relations to Messrs. Oliver Ellsworth, W. R. Davie, and W. V. Murray, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

PARIS, 13th *Ventose*, (3d March),
year 8 of the French Republic.

GENTLEMEN: The information which you have just communicated, of your arrival at Paris, has given me real satisfaction. If you will take the trouble to call upon me at half-past twelve tomorrow, I will be exceedingly gratified at having the honor to receive you. Accept, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

The Minister of Exterior Relations to Messrs. Ellsworth, Davie, and Murray, Ministers Plenipotentiary and Envoys Extraordinary of the United States of America.

PARIS, 14th *Ventose*, (4th March),
8th year of the French Republic,
one and indivisible.

GENTLEMEN: I have the honor to inform you that the First Consul of the Republic will give you an audience on the 17th instant; I pray you, therefore, to be so obliging as to attend on that day at the Tuilleries, in the Hall of the Ambassadors, a little before one o'clock. I beg you to accept the assurance of my high consideration.

CH. MAU. TALLEYRAND.

MARCH 8th, (17th *Ventose*.)

The Envoys were received by the Premier Consul, in the manner required by their instructions.

Citizens Joseph Bonaparte, Fleurieu, and Rœderer, being appointed by the Premier Consul, on the 13th *Ventose*, Ministers Plenipotentiary for the purpose of negotiating with the Ministers Plenipotentiary and Envoys Extraordinary of the United States, upon the differences existing between the two States, this event was announced

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to the Envoys of the United States, by the Minister of Exterior Relations, in the following letter, under date of the 18th Ventose, (8th of March:)

The Minister of Exterior Relations to Messrs. Ellsworth, Davie, and Murray, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

PARIS 18th Ventose, (8th of March),
8th year of the French Republic,
one and indivisible.

GENTLEMEN: I have the honor to inform you that the First Consul of the Republic has just appointed Citizens Joseph Bonaparte, ex-Ambassador at Rome, Fleurieu, late Minister of Marine, and Røderer, Counsellor of State, Ministers Plenipotentiary, to treat with you concerning the differences existing between the two nations, to effect the accommodation which they mutually desire, and to fulfil the wish, expressed by the two Governments, to remove a misunderstanding which comports as little with their interests as with their sentiments. Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Minister of Exterior Relations of the French Republic.

PARIS, March 9, 1800.

CITIZEN MINISTER: The undersigned, Envoys Extraordinary of the United States, have the honor to acknowledge your letter of yesterday, announcing to them that the Premier Consul of the Republic had named the Citizens Joseph Bonaparte, ex-Ambassador at Rome, Fleurieu, late Minister of Marine, and Røderer, Counsellor of State, as Ministers Plenipotentiary to treat with them on the differences existing between the French Republic and the United States of America.

The Government of the United States, being always assured that the interests of both nations would be essentially promoted by the re-establishment of confidence and harmony between the two countries, is sincerely desirous to adjust all existing differences, and to restore between them that understanding and friendly intercourse so congenial to her wishes, and so essential to their mutual prosperity.

The agreeable and interesting task of effecting these great objects has been committed, on the part of the United States, to the undersigned, and they will be ready to enter upon that business as soon as the Ministers Plenipotentiary of the French Republic shall signify that they are ready to commence the negotiation. Accept, Citizen Minister, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Envoys of the United States having thus informed the Minister of Exterior Relations of

their readiness to enter on the business of the negotiation, as soon as it would be convenient for the Ministers of the French Republic, they waited until the 14th for some intimation from them on that subject: none, however, being then received, they agreed to address the following note to Messrs. Joseph Bonaparte, Fleurieu, and Røderer, the Ministers announced in the above communication:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, March 15, 1800.

MINISTERS: The undersigned had the pleasure to be informed of your appointment as Ministers Plenipotentiary to treat with them on the differences existing between the French Republic and the United States, by a letter from the Minister of Exterior Relations, under date of the 18th Ventose.

The necessary previous measures appearing now to be taken by both Governments, it remains with their Ministers to have their wishes fulfilled: and the undersigned permit themselves to hope that the strange phenomenon of a misunderstanding between the French Republic and the United States of America will soon disappear. They will have the honor to meet the Ministers Plenipotentiary of the French Republic at such time and place as they may prefer, for the exchange of powers, and to learn how soon it will be convenient for them to commence the negotiation. Accept, Ministers, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

MARCH 27th.

The Envoys had received no answer to their note of the 15th, but had been informed, verbally, that the delay was much regretted by the French Government and the Ministers, and that it was occasioned by the indisposition of Mr. Joseph Bonaparte, President of the French Commission, who, in a note to the Envoys, of this date, announced his recovery. The French Ministers, however, continuing silent, the Envoys addressed the following note to them, on the morning of the 29th; and, in the afternoon of the same day, received the note under date of the 8th Germinal, (same date:)

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to Citizens J. Bonaparte, Fleurieu, and Røderer, Ministers Plenipotentiary of the French Republic.

PARIS, March 29, 1800.

CITIZEN MINISTERS: The undersigned are happy to learn that the indisposition of Mr. Bonaparte, which has so unfortunately retarded the commencement of the negotiation, is at length removed: and, impressed as they are with the importance of their mission, and the urgency of existing circumstances, they take again the liberty

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to express their solicitude that an early day may be named, at which it will be convenient for you to honor the undersigned with an interview, for the purpose of effecting the object of their last note. Accept, Citizen Ministers, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Ministers Plenipotentiary of the French Republic to the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

PARIS, 8th Germinal, year 8,
(27th March, 1800.)

GENTLEMEN: We participate, very sincerely, in the wish which you have expressed for the speedy re-establishment of friendly relations between the United States of America and the French Republic; and it is for the purpose of hastening its accomplishment that we propose a conference the 11th or 12th instant, at whatever hour may be most convenient to you, at the house of Citizen J. Bonaparte, one of us. Receive, gentlemen, the assurance of our high consideration.

BONAPARTE.
FLEURIEU.
RÖDERER.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, March, 30, 1800.

CITIZEN MINISTERS: The underwritten Envoys Extraordinary and Ministers Plenipotentiary of the United States have the pleasure to acknowledge the receipt of your note of the 8th Germinal, proposing a meeting on the 11th or 12th following, at such hour as might be convenient.

The underwritten will have the honor to meet the Ministers Plenipotentiary of the French Republic at the house of the Citizen Joseph Bonaparte, on the 12th Germinal, (2d April,) at one o'clock in the afternoon; a time which they hope will be agreeable. Receive, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

On the 2d of April, (12th Germinal,) the Envoys of the United States met the French Ministers at the house of Joseph Bonaparte, where the following powers were exchanged, and the mode of conducting the negotiation adjusted:

Extract from the Registers of the Decrees of the First Consul of the Republic.

PARIS, 12th Ventose, (3d March),
year 8 of the French Republic,
one and indivisible.

In the name of the French people: Bonaparte, First Consul of the Republic, upon the report of the Minister of Foreign Relations, decrees:

ARTICLE 1. Citizen Joseph Bonaparte, ex-Ambassador of the French Republic. Fleurieu, and

Rœderer, Counsellors of State, are appointed Ministers Plenipotentiary, for the purpose of negotiating with the Ministers Plenipotentiary and Envoys Extraordinary of the United States, upon the differences existing between the two nations.

ART. 2. Citizen Joseph Bonaparte shall preside over the French Ministers.

BONAPARTE.

By the First Consul: the Secretary of State,

HUGUES B. MARET.

A true copy: the Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

A true copy: the Ministers Plenipotentiary,
BONAPARTE,
FLEURIEU,
RÖDERER.

JOHN ADAMS, President of the United States of America. To all to whom these presents shall come, greeting:

Whereas, by letters patent under the seal of the United States, and dated on the 26th day of February last, I did, by and with the advice and consent of the Senate of the United States, appoint Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and William Vans Murray, Minister Resident of the United States at the Hague, to be Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, thereby giving and granting to them full powers, for and in the name of the United States, to meet and confer with the Minister or Ministers of the French Republic, who should be appointed and commissioned with equal powers, and with such Minister or Ministers to discuss and settle by a treaty all controversies between the United States and France, transmitting such treaty to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given; and whereas the said Patrick Henry did signify to me that, from his bodily infirmities, being unable to execute his said appointment, he declined accepting the same; now, know ye, that reposing especial trust and confidence in the integrity, prudence, and abilities of William Richardson Davie, late Governor of the State of North Carolina, I have nominated, and, by and with the advice and consent of the Senate, do appoint him an Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic, in the room of the said Patrick Henry, hereby giving and granting to him, and to the said Oliver Ellsworth, and William Vans Murray, full powers for and in the name of the United States, to meet and confer with the Minister or Ministers of the French Republic, who shall be appointed and commissioned with equal powers, and with such Minister or Ministers to discuss and settle by a treaty all controversies between the United States and France, transmitting such treaty to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the

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United States, if such advice and consent shall be given.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States of America to be hereunto affixed. Given under my hand, at the city of Philadelphia, the tenth day of December, in the year of our Lord one thousand seven hundred and ninety-nine, and of the independence of the United States the twenty-fourth.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING,

Secretary of State.

The Envoys, after withdrawing, proceeded immediately to consider the copy of the powers delivered by the French Ministers; and, as they appeared to them not sufficiently full and explicit to authorize them to commence the negotiation under the limitation of their own powers, they addressed the following note to the French Ministers on the next day:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 3, 1800.

CITIZEN MINISTERS: The undersigned Envoys, having conferred on the copy delivered to them yesterday, of the powers granted to you to negotiate with them concerning the existing differences between the French Republic and the United States, feel themselves compelled to present to you the doubts they entertain whether the terms in which those powers are expressed are sufficiently full and explicit. You will please to observe that the powers with which the undersigned are invested, authorize them to discuss and settle by a treaty all controversies between the United States and France, and they suppose it may be questionable, at least, whether the same latitude of power may be given by the expression, "*à l'effet de négocier avec les Ministres, &c. sur les différends survenus entre les deux états;*" and if it could be inferred from any construction of the terms used in the commission, that to "negotiate respecting the existing differences," implied a power to settle them also by treaty, yet the undersigned conceive that it would not be advisable to act upon powers deduced by implication from terms in their nature indefinite, in the same manner as if they had been fully and explicitly expressed. Upon examining the copy of the commission, which the undersigned had the honor to deliver to you yesterday, you will observe the nature and extent of their powers, and that they can only negotiate with Ministers of the French Republic, who may be commissioned with equal powers. This circumstance, it is hoped, will satisfy the Ministers of the French Republic, that the undersigned have not attached to this objection an unnecessary importance, and evince to them the propriety of procuring from their Government powers commensurate with those granted by the Government of the United States.

While the undersigned regret any trouble or

delay that this circumstance may occasion, they are happy that the situation of the Ministers of the French Republic will enable them to remove the difficulty without any considerable inconvenience to the negotiation.

The Envoys of the United States have the highest confidence in the upright views and frank disposition of the French Government, and hope it will do them the justice to believe that they are actuated only by a respect to that duty which their commission and instructions prescribe. Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

APRIL 8.

Received the following letter from the French Ministers, under date of the 17th Germinal, (7th April,) enclosing a copy of the new powers, and a copy of a letter from the Minister of Exterior Relations:

The Minister of Exterior Relations to the Ministers Plenipotentiary appointed to negotiate with the Envoys of the United States.

PARIS, 19 *Germinal*, (April 6,) year 8.

I have received, citizens, your letter of the 13th and 14th of this month, (Nos. 1 and 2,) with the copies therein referred to.

By the first, you inform me of the exchange which you have made of your powers with the American Ministers; and, in the second, you communicate an extract of the note which these Ministers have addressed to you, respecting the insufficiency which they suppose to exist in the powers you have exchanged with them.

The First Consul, to whom I have submitted your despatches, in order to present to the Ministers of the United States an unequivocal proof of the spirit in which he desires to conduct the negotiation, has thought proper to furnish you with powers still more special and explicit than those contained in his first decree. In transmitting them, however, to the American Ministers, you will be pleased to apprise them that, in our diplomatic usages, since the Revolution, our negotiators have almost always been accredited and empowered by simple decrees, similar to the one which you have placed in their hands; and that in these decrees the expression "to negotiate" has always imported an authority "to conclude." I might have confined myself, indeed, to giving you, officially, this explanation; and the American Ministers, as they have themselves declared, would have been content with receiving it. But the First Consul has preferred the other mode, for the purpose, as I have already stated, of removing all the obstacles of mere form which could delay or embarrass the progress of the negotiation.

Safety and fraternity.

CH. MAU. TALLEYRAND.

An exact copy: the Ministers Plenipotentiary of the French Republic:

J. BONAPARTE,
FLEURIEU,
RØDERER.

Relations with France.

PARIS, *the 17th Germinal,*
(*7th April,*) year 8.

The undersigned, Ministers Plenipotentiary of the French Republic, have the honor to inform the Envoys Extraordinary and Ministers Plenipotentiary of the United States, that their letter, dated the 13th of this month, has been received.

In order to reply to this letter, the French Ministers have awaited the result of its reference to their Government, which they hastened to make. The answer which they received is enclosed. In the new powers, of which they have the honor to transmit the subjoined copy, the American Ministers will perceive the manner in which the First Consul of the Republic has removed the doubt which they expressed; and in the explanations contained in the letter of the Ministers of Exterior Relations, they will not fail to discover new motives of confidence. The Ministers of the Republic, presuming that no obstacle will now oppose the opening of the negotiation, expect to receive, on the part of the Ministers of the United States, the memorial which was announced at the conference of the 12th instant.

They pray them to receive the assurance of their high consideration.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

Extract from the register of the Decrees of the First Consul of the Republic.

PARIS, *15th Germinal,* (5th March,) year 8th of the Republic, one and indivisible.

In the name of the French people: Bonaparte, Rœderer, and Fleurieu, appointed, by the decree of the 13th Ventose, (3d March) last, Ministers Plenipotentiary, to negotiate with the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America upon the differences existing between the two nations, are authorized to negotiate with the said Ministers upon all that concerns these differences; as well as to sign and conclude, in the name of the Republic, whatever shall to them appear necessary to effect a perfect re-establishment of good harmony. To this end, therefore, Citizens Bonaparte, Rœderer, and Fleurieu receive, by this decree, full and complets powers.

BONAPARTE.

By the first Consul: the Secretary of State,
HUGHES B. MARET.

An exact copy: the Minister of Exterior Relations.
C. M. TALLEYRAND.

An exact copy: the Ministers Plenipotentiary of the French Republic.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

The following answer was returned to the above communication, accompanied by a note under the same date, sketching the plan on which the Envoys proposed to open the negotiation. This proposition produced a discussion, detailed in the following correspondence up to the 17th April, inclusive;

when the Envoys considered the way sufficiently prepared to authorize them to offer some details in the form of articles of a treaty, respecting the claims of individuals.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Citizens Joseph Bonaparte, Fleurieu, and Rœderer, Ministers Plenipotentiary of the French Republic.

PARIS, *April 7,* 1800.

CITIZEN MINISTERS: The undersigned have great pleasure in acknowledging the receipt of the note which you did them the honor of addressing to them to day, covering the *arrêté* of new powers, and the copy of the letter to you from the Minister of Exterior Relations. That Minister, they are happy to see, has done them justice upon the interpretation which they had presumed to be the correct one of the terms in question; and as they unite with you in the wish to press forward the negotiation, they believe that, in transmitting the note which accompanies this, and which was promised on the 12th of Germinal, they at once meet the frankness of your views, and give to you a certain demonstration of the confidence with which the justice and principles of the Government of the French Republic have inspired them.

Accept, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

PARIS, *April 7,* 1800.

CITIZEN MINISTERS: The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly on the great object of their mission, an object which they believe may be best obtained by avoiding to retrace too minutely the too well known and too painful incidents which have rendered a negotiation necessary. To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries, which must essentially contribute to their mutual advancement. Should this general view of the subject be approved by the Ministers Plenipotentiary, to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken. Accept, &c.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

PARIS, *19th Germinal,*
(*9th April,*) year 8.

The Ministers of the French Republic have perused with attention the plan proposed by the En-

Relations with France.

voys Extraordinary and Ministers Plenipotentiary of the United States for conducting the negotiation.

They are of opinion that the first object should be, to determine the rules, and the mode of procedure, for the valuation and indemnification of those injuries for which the two nations, respectively, may have demands against each other, whether these demands are founded on national injuries or individual claims.

And that the second object is, to insure the execution of the treaties of friendship and commerce, now existing between the two nations, and the accomplishment of those views of reciprocal advantage which first dictated them.

The undersigned have only, in addition, to observe, that as no measures are authorized by the Government of France affording the least ground of inquietude to the American commerce, they would consider it a preliminary favorable to the negotiation, if the Envoys Extraordinary and Ministers Plenipotentiary of the United States will be pleased to communicate the orders, no doubt issued by the President of the United States, to discontinue the operation of the acts of Congress, the enforcement of which must be viewed as repugnant to that good understanding for which both nations have expressed an equal desire.

The undersigned pray the Ministers Plenipotentiary to receive the assurance of their high consideration.

BONAPARTE,
FLEURIEU,
RÖDERER.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 11, 1800.

CITIZEN MINISTERS: The undersigned have seen with pleasure in your note which they had the honor to receive yesterday, an acquiescence in the principle of compensating equitable claims of citizens on both sides; though you have proposed to include also claims which either nation might have for herself.

This description of claims was omitted in the proposition of the undersigned, not from the apprehension of an unfavorable balance, but because in their nature they were difficult to define and limit, because their discussion might be unpleasant and dilatory, and because, also, to insist on pecuniary compensation for themselves, would be incompatible with that magnanimity which it was presumed both nations would prefer in an act of accommodation, so auspicious to their future prosperity. If, however, after considering these objections, and others which will suggest themselves, the Ministers of the French Republic shall deem it necessary to provide pecuniary compensation for such claims, the undersigned will be ready further to consider the question at a convenient stage of the negotiation, which they apprehend will be after it shall be seen what arrangement would be acceptable for the claims of citizens.

The expectation of the undersigned, with regard

to commerce, is not to renew or amend the former treaty, but to propose a new one, which shall have fewer difficulties of construction and execution; shall more extend the provisions for intercourse, and better adapt them to the existing state of things; and they trust that, when the negotiation shall have sufficiently progressed to take up this branch of it more particularly, their expectation will be shown to be reasonable.

Any recent acts of the French Republic, having for their object to remove from the American commerce causes of disquietude, will be duly estimated in America, and be perceived to have strengthened the ground for returning confidence, when there shall have been time for it.

With respect to the acts of the Congress of the United States, which the hard alternative of abandoning their commerce to ruin imposed, and which, far from contemplating a co-operation with the enemies of the Republic, did not even authorize reprisals upon her merchantmen, but were restricted simply to giving safety to their own, till a moment shall arrive when their sufferings could be heard and redressed: of these acts the undersigned do not know that the President of the United States has suspended their effect, except in the instance of saving St. Domingo from famine. But, without doubt, their effects will wholly cease as soon as it can be assured that the necessity which imposed them no longer exists: of which the undersigned hope their mission will be regarded as a sufficient pledge.

Should it appear to the Ministers of the French Republic, from these explanations, made with a frankness equal to the candor with which they are sure to be examined, that the way is prepared to bring forward an arrangement for the claims of citizens, the undersigned will soon have the honor to offer for their consideration some details on that subject. Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Ministers of France to the American Envoys.

PARIS, 23d *Germinal*, (14th April,) year 8.

The Ministers Plenipotentiary of the French Republic do not perceive, from the considerations suggested rather than developed by the Envoys Extraordinary and Ministers Plenipotentiary of the United States, any obstacle to arrangements which it may be proper to make, on the subject of the individual claims of one nation upon the other. It being impossible, on the part of either, to estimate these claims except by the discussion of the principles of the law of nations and the obligations of treaties, the national claims will, for the most part, be impliedly estimated by the value affixed to those of individuals. National stipulations will be only the ulterior consequences of admitted principles.

The question, therefore, whether it is expedient to form a new treaty, cannot be answered until after a discussion, in which the meaning of ancient treaties shall be determined, the principles of

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the laws of nations unfolded, and the application of these principles to the claims brought forward, whether national or individual, clearly shown. It is only when the doubts thus raised shall be removed, that the Ministers Plenipotentiary of the two nations will be able to determine whether the ancient treaties will suffice to their interests or not.

Finally, the Ministers of the French Republic cannot see without concern that the Ministers Plenipotentiary of the United States are uninformed of any revocation of the hostile measures which their Government has adopted with regard to France. The French Government, after rescinding several regulations which had given inquietude to the Federal Government; after publishing many others for the purpose of re-establishing perfect harmony; after professing, also, a readiness to do all that justice shall demand, in order to efface every irritating remembrance; had a right to expect, with other evidences of reciprocity, that the armed vessels of the United States should cease to attack the vessels of the Republic, and that the effusion of human blood should no longer be feared.

To prevent the interruption of the negotiation by vexatious incidents like these, it is necessary that the Ministers Plenipotentiary of the United States shall give an assurance to the Ministers Plenipotentiary of the Republic, that their Government will terminate, without delay, the hostile condition which it now maintains in relation to France. This assurance, strongly demanded by the acts of the French Government, to which a just reciprocity has been promised, can only be considered a legitimate exchange for that herein contained.

The undersigned pray the Envoys Extraordinary and Ministers Plenipotentiary of the United States to accept the assurances of their high consideration.

BONAPARTE,
FLEURIEU,
RÖDERER.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 17, 1800.

CITIZEN MINISTERS: The undersigned have been favored with your note of the 23d of Germinal.

With respect to the assurances desired of them that measures of the United States, which had been resorted to for the protection of their commerce, should immediately cease, they must explicitly declare that they are not authorized to give assurances, otherwise than by incorporating them in a treaty, it having been expected by their Government that, in that way, every necessary assurance on both sides would so soon be given as to render preliminary provisions of little use: and which expectation the undersigned yet confidently trust will not be disappointed.

Should they, however, be favored with copies

of recent repeals of regulations, which had given inquietude to the United States, and of other regulations lately adopted with a view of re-establishing harmony, it would be as well their pleasure as their duty to transmit the same in the most favorable manner to their Government, which would be sure, in the conciliatory temper it has evinced, to receive from them very fully the correspondent impressions they are adapted to make. Penetrated as the undersigned are with the interests which both nations have in returning to a good understanding, they receive with sensibility a pledge of that event in the declaration, that the French Republic is ready to do all that justice can require to obliterate every irritating remembrance.

The undersigned, conceiving that the way is now prepared, have the honor to offer for consideration some details respecting the claims of individuals. They have preferred to offer them at once in the form of articles of the treaty, as containing a full and frank expression of their views; and as a mean by which the principles can be discussed connected directly with their application; as the most probable way of fixing the attention of the Ministers on both sides upon the points of difference of opinion, if any such exist; and as affording the most certain prospect of progressing in the business. And they have no doubt that in those articles or propositions will be seen a spirit of accommodation as well as of justice.

Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

ARTICLE 1. There shall be a firm, inviolable and universal peace, and a true and sincere friendship, between the French Republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

ART. 2. Whereas complaints have been made by divers merchants and others, citizens of the United States, that, during the course of the war in which the French Republic is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, in ports and places within the jurisdiction or dominions of the said Republic, all under color of authority or commissions from the same; for which losses and damage they have failed, without manifest neglect or wilful omission on their part to obtain adequate compensation: it is agreed that, in all such cases, full and complete compensation shall be made by the Government of the French Republic.

And whereas complaints have also been made by divers merchants and others, citizens of the French Republic, that —, under color of authority or commissions from the United States; for which losses and damage they have failed, without manifest negligence or wilful omission on their part, to obtain adequate compensation: it is agreed that, in all such cases, full and complete

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compensation shall be made by the Government of the United States.

That, for the purpose of ascertaining the amount of any such losses and damage sustained either by citizens of the United States or of the French Republic, five Commissioners shall be appointed and authorized to meet and act in the following manner, viz :

When the five Commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other ; which oath or affirmation, being so taken and duly attested, shall be entered on the records of their proceedings, viz :

I, A B, one of the Commissioners appointed in pursuance of the second article of the treaty of —, between the French Republic and the United States of America, do solemnly swear or affirm that I will honestly, diligently, impartially, and carefully examine all such complaints as, under the said article, shall be preferred to the said Commissioners, and the same will decide to the best of my judgment, according to the rules and principles of decision expressed and contained in the said treaty of —. I will, also, in like manner, examine all such complaints as, under the fifth article of said treaty, shall be preferred to the said Commissioners, and will decide them to the best of my judgment, according to justice and equity ; and that I will forbear to act as Commissioner in any case in which I am personally interested.

Two years, from the day on which the Commissioners shall form a Board, and be ready to proceed to business, are assigned for receiving complaints and applications ; but the Commissioners are nevertheless authorized, in any particular case in which it shall appear to them reasonable and just, to extend the said term of two years for any term not exceeding six months after the expiration thereof. The Commissioners shall be appointed, and meet at —, within six months from the ratifications of this treaty by the respective Governments, and as much sooner as may be.

The Commissioners, in examining the complaints and applications so preferred to them, shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the premises ; and also to receive in evidence, according as they may think most consistent with justice and equity, all written depositions, or books, or copies, or extracts thereof ; every such deposition, or book, or paper, or copy, or extract, being duly authenticated, either according to the legal forms now existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow. They shall not, in examining claims under this article, be concluded either as to law or facts by any judicial decision, sentence, or decree, which has been had or rendered therein : and they shall decide the claims in question according to the original merits of the several cases, and to justice, equity, and the law of nations ; and in all cases of complaint existing prior to the 7th

of July, 1798, according to the treaties and consular convention then existing between France and the United States.

The award of said Commissioners, or any Board of them, as hereinbefore provided for, shall be final and conclusive as to the justice of the claim, and the amount of the sum to be paid to the creditor or claimant. And they shall comprehend, when in favor of a claimant, a reasonable allowance of interest on the original losses or damage, computed up to the time when the award is to be performed.

And it is also further agreed, that not only the now existing cases, of all the descriptions before named, but all such as shall exist at the time of exchanging the ratifications of this treaty, shall be considered as being within the provisions, intent, and meaning of this article.

ART. 3. The French Republic, desirous, in an adjustment of differences with the United States, to give them a proof of her liberality, by waiving formal exceptions, and narrowing the ground of discussion, does agree that such claims of the citizens of the United States for compensation as shall be in other respects fair and equitable, shall not be prejudiced by reason of not having on board their vessels, when captured, any other passport or sea-letter than such as had been usually furnished by their Government prior to the 2d day of March, 1797, or any other ship's *rôle d'équipage*, or other shipping paper, than had been generally used by the citizens of the United States prior to that date ; nor shall their claims be prejudiced by reason of having on board their vessels, when captured, merchandise, the manufacture or production of any particular country or place.

ART. 4. Any sum which shall be awarded by the said Commissioners, pursuant to the second article of this treaty, in favor of a claimant, a citizen of the United States, the Government of the French Republic will, on the condition of such releases or assignments, to be given by him, as the said Commissioners may direct, cause to be paid to such claimant, in silver or gold coin, without deduction, at Paris, within three months after the date of the award ; or will then cause the sum so awarded to be converted into transferable stock or capital, bearing interest at the rate of six per cent. per annum ; which interest and principal the said Government will cause to be paid in silver or gold coin, without deduction, to such claimant, or his transferee at Paris, viz : the interest annually, and the principal by three equal instalments, viz : one-third in three years, one-third in five years, and the remaining third in seven years from the date of the award. The form of the security or securities, and the mode of transfer, to be such as the said Commissioners shall prescribe : and any sum which shall be so awarded in favor of a claimant, a citizen of the French Republic, the Government of the United States will, within six months after the date of the award, upon like condition, and in like manner and time, cause to be paid, or secure to be paid, to such claimant, or his transferee, at the city of Washington.

ART. 5. And whereas complaints have been

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made by divers merchants and others, citizens of the United States, that the French Government is indebted to them, by contract, in considerable sums, for provisions and other property received from them in France and other places within the jurisdiction or dominions of the said Republic, and for freight and use of their vessels to transport provisions and other property, and prisoners, all since the commencement of the war in which the French Republic is now engaged, for a part of which debts they hold certificates and bills, issued and drawn by officers and agents of the Republic, payable in France and in other places; and that, although they have used due diligence, it has never been in their power to obtain payment of said debts, certificates, or bills: it is agreed that, in such cases, the claimants may, if they see fit, prefer their claims to the Commissioners provided in the second article, who are authorized to proceed respecting the same as to the time of their reception, mode of examination, and admission of evidence, and generally, in other respects, as is prescribed for the claims there specified; and they shall decide them according to justice and equity.

The award of the Commissioners, in such cases, or any Board of them, as is provided in the second article, shall be final and conclusive, both as to the justice of the demand and the amount of the sum to be paid to the creditors or claimants: and, when in favor of claimants, they shall comprehend interest from the times, respectively, at which the debts ought, according to the tenor or nature of the contract, to have been paid, at the rates respectively stipulated therein; or, where none was specially stipulated, at such rate, in each case, as the Commissioners shall judge to be just. But it is understood that no person, by omitting to prefer such, his claim, to the said Commissioners, shall thereby impair his right to seek and obtain payment by any other means.

Whatever sum shall be awarded in favor of any claimant under this article, the Government of the French Republic will, in three months after the date of the award, on condition of such releases or assignments to be given by him as the said Commissioners may direct, cause to be paid to him, without deduction, in gold or silver coin, at Paris, or will then convert the same into transferable stock or capital, bearing an interest at the rate of six per cent. per annum; which interest and principal the said Government will cause to be paid, without deduction, in gold or silver coin, to such claimant, or his transferee at Paris, viz: the interest annually, and the principal by three equal instalments, viz: one-third in two years, one-third in four years, and the remaining third in six years from the date of the award. The form of the security or securities, and the mode of transfer to be such as the said Commissioners shall prescribe.

ART. 6. It is further agreed that the Commissioners mentioned in this and the preceding articles shall be respectively paid in such manner as shall be agreed between the two nations; such agreement being to be settled at the time of the exchange of the ratifications of this treaty; and

all other expenses attending the said Commissioners shall be defrayed jointly by the two parties; the same being previously ascertained and allowed by a majority of the Commissioners: and in case of death, sickness, or necessary absence, the place of every such Commissioner, respectively, shall be supplied in the same manner as such Commissioner was first appointed; and the new Commissioner shall take the same oath or affirmation, and do the same duties.

[Explanatory Note.]

The Ministers Plenipotentiary of the French Republic will please to observe that a blank is left for the insertion of such claims of the citizens of the Republic on the United States as the Ministers may think proper to bring forward. A blank is also left for the mode of selecting the five proposed Commissioners, and another for the manner in which they shall be organized; for the filling of which two last the Envoys of the United States are preparing propositions, which will be sent in a day or two. A blank is also left for the title of the treaty, of which the proposed articles, if agreed to, may form a part.

APRIL 18.

The views of the French Government being in some measure developed in the preceding correspondence, and the negotiation having now assumed some form, it was thought proper to advise the Government of the United States of the progress and state of the business. The following letter was therefore written to the Secretary of State; duplicates and triplicates were also afterwards forwarded:

PARIS, April 18, 1800.

SIR: Your despatches of the 6th and 20th of January reached us some time since, as did also their duplicates and triplicates.

We all met here the 2d of March, Mr. Murray having arrived the evening before. The papers marked from A to V, which we have the honor to enclose, trace the circumstances connected with our mission, which have since taken place.

On the 5th of March, we waited on the Minister of Exterior Relations, delivered copies of our letters of credence, and requested to be informed at what time we should have an audience of the Premier Consul. He observed that, in cases like ours, it was usual to postpone the audience till the negotiation was finished. We replied that, should we be honored with one before the negotiation commenced, we thought its effects would be favorable. Mr. Talleyrand then said that he supposed there would be no difficulty on that point, and that he would speak to the Premier Consul about it.

On the 8th of March, agreeably to the notification which we had in the meantime received, we attended, and had an audience of the Premier Consul at the palace of the Tuilleries, and delivered him our letters of credence. We were received with the respect due to the character which we had the honor to bear. The audience was a

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public one, and was attended by the two other Consuls, the Ministers of the Government, members of the Council of State, general officers, and the Ministers of foreign Powers. After the compliments usual on such occasions had passed, Mr. Talleyrand informed us that a commission of three Ministers Plenipotentiary had been appointed to negotiate with us, and that we should receive a note from him officially notifying us of that appointment; which we accordingly received in the evening of the same day.

The illness of Mr. Joseph Bonaparte, President of the French Commission, prevented our meeting with them for the exchange of powers till the 2d instant; and the time till the 7th was also lost in obtaining such further powers as were satisfactory to us. Since that day you will perceive that the negotiation has made some progress; and will doubtless also perceive, that there has been, on our part, due solicitude to give it facility.

Our note of yesterday, sent to-day, was accompanied with six articles covering the whole ground of individual claims, and formed for a treaty; but there has not been time to prepare a copy for this despatch. It is understood that the campaign has opened between Austria and France, on the side of Italy.

We have the honor to be, sir, with high respect, your obedient humble servants,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

P. S. We shall be hard pressed to revive the old treaty, so far, at least, as to save its anteriority.

APRIL 21.

The Envoys being extremely desirous of forming the Board of Commissioners for adjusting the claims in some manner that might avoid the inconveniences which have resulted from the mode prescribed in the sixth and seventh articles of the Treaty of Amity and Commerce between the United States and Great Britain, had retained that part of the subject under consideration till the 21st of April; when, after the discussion of several projects, they finally agreed that, under all circumstances, the mode adopted in the above treaty was the least exceptionable, and transmitted the following note to the French Ministers:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, April 21, 1800.

CITIZEN MINISTERS: The undersigned requests that the blanks in the articles which they had the honor to send you under the date of the 17th May, be filled as follows, viz: that left for the mode of selecting the five Commissioners with these words: "Two of them shall be appointed by the Premier Consul of the French Republic, two of them by the President of the United States, by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four; and, in case they should not agree in such choice,

the Commissioners named by the two parties shall respectively propose one person; and of the names so proposed, one shall be drawn by lot in the presence of the four original Commissioners." That left for the organization of a board, with these words: "Three of said Commissioners shall constitute a board, and shall have power to do any act pertaining to said commission, provided that one of the Commissioners on each side, and the fifth Commissioner, shall be present."

And that the sentence which contains a blank for the place of their meeting, may be so completed as to read thus: "The Commissioners shall be appointed, and meet at Paris, within six months from the ratification of this treaty by the respective Governments, and as much sooner as may be; but they shall have power to adjourn from place to place, as they shall see cause." Accept, &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

PARIS, 3d Floreal, (April 22,) year 8.

The Ministers Plenipotentiary of the French Republic have received the note which the Envoys Extraordinary and Ministers Plenipotentiary of the United States have done them the honor to address to them the 17th of April, as well as the supplementary note of the 21st.

They have been engaged, since that time, in preparing a reply; and, as soon as their observations shall be reduced to writing, they will hasten to transmit them to the American Ministers.

They pray the Ministers Plenipotentiary of the United States to accept the assurance of their high consideration.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

MAY 6, 1800.

The following note was received to-day from the French Ministers:

PARIS, 16th Floreal,
(6th May) year 8.

The Ministers Plenipotentiary of the French Republic coincide with the Envoys Extraordinary and Ministers Plenipotentiary of the United States, in viewing the communication of their project of a treaty as a frank mode of leading to the discussion of principles which should guide the negotiation and promote its object.

The object of the negotiation is to restore the harmony and cement the friendship formerly subsisting between the two nations.

The principles, with which the undersigned conceive it necessary to commence, are those which can determine the true sense of the mutual obligations, the real or supposed infraction of which has caused a misunderstanding between the respective Governments.

The liquidation and discharge of the damages which may have resulted, either to the two nations or to their citizens, from this momentary

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misunderstanding, can only be considered as a consequence of the interpretation which, by common consent, shall be given to ancient treaties, as a proof of a sincere return to the primitive relations of the two nations, and as a pledge for the oblivion of those events by which the former relations have been disturbed.

The communication of this project, by the Ministers of the United States, has, therefore, a tendency to remove the obstacles which lie in the way between the object to which it is proposed to arrive and the principles with which it is proper to set out.

No doubt exists respecting the object to which the desires and interests of both nations are directed.

The Ministers, respectively, are also agreed on the expediency of providing a suitable indemnity.

The discussion, then, is now restricted to two points, viz: 1st. What are the principles which ought to have governed, and which ought still to govern, the political and commercial relations of the two nations? 2d. What is the mode, the best adapted to their respective interests, by which the ascertained indemnities shall be liquidated and discharged?

The examination of the principles ought to precede the consideration of the mode of indemnification: since, on the one hand, an indemnity cannot result except from an admitted contravention of an acknowledged obligation; and, on the other, it is only an agreement founded upon principles that can insure peace and maintain friendship.

The Ministers of the French Republic would, for this reason, have seized the present moment to develop their views respecting the various interpretations which, for years past, have been given to the treaties, if, upon reading the 2d article of the project which has been submitted, they had not been struck with an interpretation of which they can conceive neither the cause nor the object, and which, therefore, seems to require explanation. The words which contain it relate to the arbitrators to be appointed for the liquidation of damages. "They shall decide (says the project) the claims in question, according to the original merits of the several cases, and according to justice, equity, and the law of nations; and, in all cases of complaint, existing prior to the 7th July, 1798, according to the treaties and consular convention then existing between France and the United States."

The Ministers Plenipotentiary of the French Republic are not aware of any reason which can authorize a distinction between the time prior to the 7th of July, 1798, and the time subsequent to that date, in order to apply the stipulations of treaties to the damages which have arisen during the first period, and only the principles of the laws of nations to those which have occurred during the second.

The commission of the Ministers Plenipotentiary of the French Republic has designated the Treaty of Alliance, and of Friendship and Commerce, and the Consular Convention, as the sole basis of their negotiations. Upon these acts the

misunderstanding has arisen; and upon these acts it seems proper that union and friendship should be re-established.

In hastening to recognise the principle of compensation, it was the intention of the undersigned to exhibit an unequivocal proof of the fidelity of France to her ancient engagements; all pecuniary stipulations appearing to her proper as results from ancient treaties, not as preliminaries to a new one. The undersigned pray, &c.

BONAPARTE,
FLEURIEU,
RÖDERER.

P. S. We have the honor to transmit herewith the acts which show the earnestness with which the Government desires to remove the causes of irritation which have heretofore existed.

MAY 7.

A conference was held to-day for the purpose of agreeing upon the draught of answer; and, as the French Ministers had acceded to the general proposition of mutual compensation and indemnity, in their note of the 19th Germinal, (9th of April,) and had again recognised the principle in their note of the 16th Floreal, (6th of May,) connected with certain discussions, and the ulterior adjustment of the existing differences in a treaty, the Envoys were of opinion that they would facilitate the arrangements as to the preliminary object, and avoid the waste of time, in the discussion of general abstract principles, by sending the entire project of a treaty which they had then prepared. By these means, they hoped to fix the attention of the French Ministers to the real objects of difference, and press the business forward with a degree of certainty that would mark the progress of the negotiation; and, therefore, the next day, the 8th of May, forwarded the answer which follows, of that date, accompanied by the remaining part of their project of a treaty, from article 7 to article 36, inclusive:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, May 8, 1800.

CITIZENS MINISTERS: The undersigned have been honored with your note of the 16th of Floreal. They readily assign the reason why it was proposed by them that the treaties and consular convention, made between France and the United States, should be the rule of decision on the claims of their respective citizens, only with respect to causes of complaint which arose prior to the 7th July, 1798, leaving their subsequent causes of complaint to rest upon the law of nations; and also the reason why they cannot regard those treaties as the basis of the present negotiation for any other purpose than that of giving a rule by which causes of complaint, prior to the period above mentioned, are to be tested.

It was not till after the Treaty of Amity and Commerce, of February, 1778, had been violated to a great extent on the part of the French Re-

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public, nor till after explanations and an amicable adjustment, sought by the United States, had been refused, that they did, on the 7th day of July, 1798, by a solemn public act, declare that they were freed and exonerated from the treaties and consular convention which had been entered into between them and France. Nor would such declaration, though justified by the law of nature and of nations, have even then been made, if it had been possible for the United States, while continuing the treaties and consular convention as the rule of their conduct, to guard against injuries which daily increased, and threatened their commerce with total destruction. That declaration cannot be recalled; and the United States must abide by its effects, with respect to the priority of treaties, whatever inconveniences may result to themselves. Their Government, it was understood, could not, with good faith, give to the undersigned powers to change or effect such priorities, and they do not possess them.

The undersigned deem it unnecessary at present to enumerate the acts of the French Government which produced the above measure. The principles of those decrees are as well understood, and now as fully acknowledged, as the mischiefs they have generated: and, as the object of this negotiation is to produce the reconciliation, and to cement the ancient friendship of the two nations, such a painful recapitulation would, at this time, answer no valuable purpose. They are, therefore, still of opinion that the views of the respective Ministers should be directed to the object of terminating their differences in such a manner as, without a specific and detailed discussion on the merits of the respective complaints, might, by the adoption of plain and acknowledged principles of justice, produce mutual satisfaction and a permanent good understanding.

The undersigned recognise the principle that a right to indemnification can result only from the violation of a known obligation; and they conceive it to be equally incontrovertible that the law of nations constitutes such an obligation where treaties do not exist. They have not understood that the principle of compensation, proposed by them, was admitted without a supposition that the other points would be satisfactorily arranged; yet they trust that satisfying the demands of justice will always be considered as the wisest of political expedients.

The questions what are to be the political, and what the commercial relations of the two countries, have had the consideration, so far as the undersigned have been able to bestow it, which questions of such high and extensive import deserve.

For an answer to the first, they refer to their project of a treaty; and it is scarcely necessary to add that the interest of the United States, while it prompts them strongly to cultivate a good understanding with France, forbids them to wish such relations to any Power as might involve them in the contests with which Europe is so often scourged. They wish not even to afford in their ports, beyond the rights of hospitality, an

asylum for privateers, which obstructs their commerce, and too easily entangles them in the conflicting passions and interests of the belligerent Powers.

It is true, however, that the engagements of the United States do not, as yet, permit them to pursue their policy, with respect to privateers, to its full extent. Those of one nation have a right of asylum in their ports, but it is a right which may cease in two years after the present war with Great Britain. Nor is it conceived to be very interesting to the French Republic during the present war, which is presumed to draw near to an honorable termination, to whose prizes and privateers the ports of the United States may, in the meantime, be most open, as few or none of her merchantmen now pass that coast to be exposed, and as few or none of her enemies pass it without convoys too strong for privateers.

For an answer to the other question, what is to be the commercial relation of the two nations, the undersigned refer particularly to the thirteenth article of their project, which they have endeavored to accommodate, not only to the existing circumstances, but to the future hopes of both nations.

It is seen that this article goes further than the colonial and monopolizing systems of Europe have admitted an experiment of; but it is hoped that the period approaches when nations will cease to interpose those barriers and restraints upon commerce, which, besides checking industry and enterprise, diminish the value of everything they have to sell, and enhance the price of everything they purchase.

As to an unembarrassed intercourse between the United States and French West India islands, in particular, nothing could more happily, or perhaps more justly, efface from the recollection of the former their sufferings in that quarter; and certainly nothing would sooner restore the latter to productiveness and utility. They need only, in addition to order, facility of supplies and sales for a few years for their complete re-establishment, and even to carry them to a height of prosperity which the neighboring islands could not rival.

Reserving to the Republic, exclusively, her coasting trade, and the direct trade between France and her colonies, and to the United States their coasting trade, and leaving each nation to encourage also, by a reduction of duties to a limited extent, the use of their own ships, is presumed sufficient so to raise the marines of both, (which, fortunately, can rise without being objects of mutual jealousy,) as to insure a reasonable share of the privileges of the ocean.

And, lastly, it will not be an objection to this article, that, while it proposes to invigorate the commerce of France, it promises also extension and activity to that of the United States; because, it is well understood, that every depression which the commerce of the latter feels, and every risk to which it is subjected, profit only the enemies of the former, by augmenting their carrying trade, and increasing their naval power.

With this note, the undersigned have the honor

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to transmit the remaining part of a project, which, together with what has been transmitted, discloses fully their views, and will, as they hope, facilitate the progress of the negotiation. Accept, &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

P. S. The Envoys of the United States have not had the pleasure to receive the copies referred to in the postscript of the note to which the above is an answer.

ART. 7. All citizens and inhabitants of either nation, detained within the jurisdiction of the other, for any cause, except for debt or crimes committed within the same, shall be immediately set at liberty. All ships of war, or other public ships, which either nation has taken from the other, and detains, shall be given up; or where that cannot without difficulty be done, the full value shall be restored; and the value, if not agreed between the parties, shall be ascertained by the Commissioners mentioned in the second article.

And it is further agreed that, if the armed ships of the United States have retaken and set free from the ships of war or other public ships of the French Republic, any prizes which they had captured from her enemies, the United States will make compensation to the French Republic for the prizes so liberated. Claims for the same may be preferred to the said Commissioners, who shall decide them according to justice and equity; and any sum or sums which they may award in satisfaction of such claims, the Government of the United States will cause to be paid, or secured in the same manner as is provided in the second article in the case of claims of the citizens of the French Republic. And, as well all cases of either of the descriptions aforesaid which shall exist at the time of exchanging the ratifications of this treaty, as those which now exist, shall be considered within the intent and meaning of this article.

ART. 8. The citizens and inhabitants of the United States shall be exempted in the French Republic from the *droit d'aubaine*, or other similar duty, under whatever name; and the citizens and inhabitants of both nations, may, by testament, donation, or otherwise, dispose of their real estates already acquired, and of their goods and effects; and their heirs or representatives, being citizens of one of the parties, and residing in either nation, or elsewhere, may succeed to them, even *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded under any pretext whatever; and their heirs or representatives shall receive such estate, or goods and effects, either in person, or by attorney or substitute; and if the heirs or representatives to whom such succession or devise, and goods or effects may have fallen, shall be minors, the guardian, tutor, curator, or executor established by the testament, or by the domiciliary laws of the country, whereof such minor shall be a citizen or inhabitant, may direct, administer, and alienate the es-

tate or goods so fallen to such minors; and, in general, in relation to such estate and goods, use all the rights and fulfil all the functions which belong by the disposition of the laws to such guardian, tutor, curator, or executor. The inheritances, as well as the goods and effects which the said citizens or inhabitants, in changing their abode, shall be desirous of removing from the place of their abode, shall be exempted, with respect to each, from all duty whatever. But it is at the same time agreed, that this article shall in no manner derogate from the laws which either State may have now in force, or may hereafter enact, to prevent emigration. Provided, also, that if the laws of either country should at any time be incompatible with the inheritance or devise of real estate by and to aliens, it is agreed that such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be.

ART. 9. Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in public funds, or in the public or private banks, shall ever, in any event of war, or national difference, be sequestered or confiscated.

ART. 10. And whereas, debtors may flee from the territories of one of the contracting parties to those of the other, it is agreed that the creditors, being citizens or inhabitants of either nation, may pursue such debtors, whether they be citizens or inhabitants, or not, of either country, and shall have the benefit of the laws of the country to which such debtors may flee, on the one side and on the other, in the same manner as if the debt or cause of action had arisen or been therein contracted.

ART. 11. And it is further agreed that the Governments of both nations, on requisitions by them respectively made, or by their respective Ministers, Consuls, or other officers authorized to make the same, will deliver up to justice all persons, who, being charged with murder or forgery, committed within the territories of the party making the requisition, shall seek an asylum within any of the territories or dependencies of the other; provided, that this shall only be done on such evidence of criminality, as, according to the laws of the nation where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had been there committed; the expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the arrested fugitive.

ART. 12. To favor commerce on both sides, it is agreed that, in case a war should break out between the two nations, (which God forbid!) the term of six months after the declaration of war, shall be allowed to the merchants, and other citizens and inhabitants, respectively, on one side and the other, in order that they may withdraw with their effects and moveables, which they shall be at liberty to send, carry away, or sell, where they please, without the least obstruction; nor shall their effects, much less their persons, be seized

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during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes, which privateers may attempt against their persons or effects. And if anything be taken from them, or any injury done to them or their effects by one of the parties, their citizens, or inhabitants, within the time above prescribed, full satisfaction shall be made to them on that account.

ART. 13. And for the purpose of more effectually maintaining a good correspondence, and facilitating commerce between the citizens of the two nations, it is agreed, on the part of the United States, that the merchant ships and vessels of the French Republic may freely enter, lade and unlade, at such convenient port or ports in each of the United States situate on the ocean, as shall for that purpose be designated by the laws of the United States, and until such designation shall be made, at any of the ports of the same where foreign ships and vessels are now permitted to enter; and may, at all times, enter, lade, and unlade at any port in the said States, at which ships and vessels of the most favored nation shall be permitted to do the same.

The citizens of the French Republic may import in such ships and vessels, and freely dispose of all merchandises, without exception, of the manufacture, growth, or produce of any part of the territories or dominions of the French Republic, or of the produce of her fisheries, and also all merchandises of the manufacture, growth, or produce of any foreign country or place, the importation of which shall not be prohibited in ships and vessels of the United States; and they may export in such ships and vessels to any country or place out of the United States, all merchandises, the exportation of which shall not be prohibited in ships and vessels of the United States. There shall be paid on such ships and vessels in the ports of the United States, no other or higher duty than shall be paid on the ships and vessels of the most favored nation, nor any other or higher duty than a tonnage duty, not exceeding fifty cents per ton of the ship or vessel; and such duties or fees, on papers obtained from any office of the port, as the citizens of the United States shall pay in like cases.

No duties shall be paid on the exportation in such ships and vessels of any merchandise whatever; nor shall any other or higher duty be paid on the importation in such ships and vessels, of any merchandise, than the most favored nation shall pay in like cases; nor any other or higher duty than shall be paid on the importation of like merchandise in the ships and vessels of the United States; except that there may be exacted a duty less, by any proportion not exceeding one-eleventh part, on importations in their own ships and vessels than on importations in any other ships or vessels whatever; and except, also, that there may be exacted such duties on teas imported

in the ships and vessels of the French Republic, as shall be paid on teas imported in the ships and vessels of the most favored nation.

The ships and vessels of the French Republic shall be permitted, when it shall be convenient for them, both to lade and unlade by parcels, at different ports in the United States, conforming to such regulations as the laws of the country shall prescribe to prevent frauds in the revenue. But they shall not unlade in any port of the United States what they have laded in any other port of the same, except in cases of distress, and shall then only be permitted to sell so much of what they have laded, as may be necessary for the repairs of the ship or vessel, and the prosecution of the voyage.

And it is also agreed, on the part of the French Republic, that the merchant ships and vessels of the United States may freely enter, lade, and unlade at such convenient port or ports in every part of the territories or dominions of the French Republic in any quarter of the world, as shall, for that purpose, be designated by the laws of the Republic; and until such designation shall be made, at all the ports in the said territories or dominions where the ships or vessels of the French Republic are now permitted to enter from the sea; and they may at all times enter, lade, and unlade at any ports within the said territories or dominions, at which ships or vessels of the most favored nation shall be permitted to do the same.

The citizens of the United States may import, in such ships or vessels, to every part of the said territories or dominions, and freely dispose of all merchandises, without exception, of the manufacture, growth, or produce of the United States, and of the produce of their fisheries; and also all merchandises of the manufacture, growth, or produce of any foreign country or place, the importation of which shall not be prohibited in ships and vessels of the French Republic. And they may export in such ships and vessels, from every part of the said territories or dominions, to any country or place out of the same, all merchandises whatever, the exportation of which shall not be prohibited in ships and vessels of the said Republic.

There shall not be paid on such ships and vessels, in any port in the territories or dominions of the French Republic, any other or higher duty than shall be paid at such port on the ships and vessels of the most favored nation; nor any other or higher duty than a tonnage duty of fifty-three sols per ton of the ship or vessel, and such duty or fees on papers obtained from any office of the port as the citizens of the French Republic shall pay in like cases.

No duties shall be paid on the exportation in such ships and vessels from any port in the said territories or dominions of any merchandise whatever; nor shall any other or higher duty be paid on the importation in such ships and vessels, to any part of the said territories or dominions, of any merchandise whatever, than the most favored nation shall pay in like cases; nor any other or higher duty than shall be paid on the importation

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of like merchandises in ships and vessels of the French Republic, except that there may be exacted a duty less, by any proportion not exceeding one-eleventh part, on importations in ships and vessels of the said Republic, than on importations in any other ships and vessels whatever; and except, also, that there may be exacted such duties on teas imported in ships and vessels of the United States as shall be paid on teas imported in the ships and vessels of the most favored nation.

The ships and vessels of the United States shall be permitted, when it shall be convenient for them, both to lade and unlade, by parcels, in different ports throughout the territories or dominions of the French Republic, conforming to such regulations as the laws of the country shall prescribe to prevent frauds in the revenue; but they shall not unlade in any port within the said territories or dominions what they have laded at any other port within the same, except in cases of distress; and shall then only be permitted to sell so much of what they had so laded as may be necessary for the repairs of the ship or vessel, and for the prosecution of the voyage.

ART. 14. The citizens of each party, respectively, shall have free admission into the dominions of the other, with liberty to reside there, to hire houses and warehouses, for the purposes of trade and commerce; and complete protection and security for the merchants and traders, citizens of either party, with their goods and effects, whether in going to, residing in, or retiring from the dominions, or from one part thereof to another of the other, shall be given. It shall be lawful for them, on either side, to employ such advocates, attorneys, notaries, solicitors, factors, brokers, and interpreters, without being obliged to employ either, as they shall think proper; and it shall be wholly free for all merchants, commanders of ships and vessels, citizens of either party, in every place subject to the jurisdiction of the other, to direct and manage their own affairs and business; and, in relation to the loading or unloading of their vessels, and everything which has relation thereto, they shall not be obliged, though they may, if they please, to employ any persons but those of the crew of the vessel.

ART. 15. The ships of the citizens of the respective countries coming upon any of the coasts belonging to either of the parties, but not willing to enter into port, or, being entered into port, and not willing to unlade their cargoes or break bulk, shall not be obliged to give an account of their lading, unless they are suspected, upon sure evidence, of carrying prohibited goods, called contraband, to the enemies of either of the two contracting parties; but shall be subject, nevertheless, to such regulations in the port as may be prescribed by the government of the place.

ART. 16. In case the citizens of either party, with their shipping, whether they be public, and equipped for war, or private, and employed in commerce, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity for seeking of shelter and harbor, to retract and enter into any of the rivers, creeks, bays,

ports, roads, or shores belonging to the other party, they shall be received with all humanity and kindness, and enjoy all friendly protection and help; and they shall be permitted to refresh and provide themselves, at reasonable rates, with victuals, and all things needful for the sustenance of their persons, or reparation of their ships; and they shall be allowed to break bulk, and unlade and sell, conformably to the orders and regulations of the government of the place, so much of the cargo as may be necessary to defray their expenses, without being obliged to pay any duties whatever, except only on such articles as they may be permitted to sell for the purposes aforesaid; and they shall no ways be detained or hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

ART. 17. If any ship belonging to either of the parties, or their citizens, shall be wrecked, foundered, or otherwise damaged, the same protection and assistance shall be given to the persons shipwrecked, or such as shall be in danger thereof, or be otherwise distressed, as would be afforded in like cases to the inhabitants of the country on whose coast such misfortune may happen; and letters of safe conduct shall likewise be given to them, when required, for their free and quiet passage from thence, and their return to their own country.

ART. 18. It is likewise agreed that deserters from the public and private vessels of either nation shall be arrested and delivered up, on application made, according to the orders and regulation of the government of the place where such deserters shall be, by the Consul, Vice Consul, or agent of the nation of which such deserter may be a citizen; and suitable provisions shall be made by law, in each country, for that purpose; and not only the original enlistment, shipping-paper, or *rôle d'équipage*, but a copy or extract, certified to be conformable to the original, by a judge of the country in which the vessel may be, or from which she may have departed, shall also be admitted in proof of desertion; and such extract or copy shall have in all the ports of the respective Powers the same force with the original, for six months: And it is further agreed that the masters and commanders of vessels, public or private, of one nation, in the country of the other, may engage and receive on board seamen and others, natives or inhabitants of the country to which the vessels belong: *Provided*, That, either on one side or the other, they shall not be at liberty to take into their service such of their countrymen (deserters excepted) as may have already engaged in the service of the other party, whether they meet them by land or by sea, unless the captains or masters under whose command such persons may be found will voluntarily discharge them from their service.

ART. 19. Neither of the said parties shall permit the ships or goods belonging to the citizens of the other to be taken within cannon-shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war, or others having

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commissions from any foreign State or Prince; but, in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the goods and vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. 20. It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass, not only directly from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested.

And whereas, it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel of either, that may have entered into such port or place, before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her return cargo; nor, if found therein after the reduction or surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners or proprietors thereof.

ART. 21. In order to regulate what is in future to be esteemed contraband of war, it is agreed that, under the said denomination, shall be comprised gunpowder, saltpetre, petards, match, ball, bombs, grenades, carcasses, cartridge-boxes, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and, generally, all kinds of arms and instruments fit for the use of troops. All the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different owner.

ART. 22. It is agreed that in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port of the country to which the captor belongs; and if any property of an enemy should be found on

board such vessel, that part only which belongs to the enemy, or which consists of articles contraband of war, destined as aforesaid, shall be made prize, and the vessel shall be at liberty to proceed with the remainder, without any impediment; and a reasonable freight shall be paid by the captor on such property of the enemy as shall be made prize. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ship: Nevertheless, it is agreed that such effects and merchandises, even though the property of an enemy, as were put on board before the declaration of war, or — months after it, shall not be in any manner subject to confiscation, but shall be faithfully and specifically restored to be carried to their place of destination: *Provided, notwithstanding*, That if such merchandise be contraband, destined as aforesaid, it shall not be in anywise lawful to carry them afterwards to a port belonging to an enemy; and, also, that if there shall be found on board the vessel of an enemy, captured by either party or its citizens, any property of the other party, or of its citizens, the same shall not be confiscated, but freely restored to the owners or proprietors thereof.

ART. 23. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that, in case either of the parties should be engaged in a war, the ships and vessels belonging to the citizens of the other shall be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the citizens of one of the parties; which sea-letter or passport shall be made out and granted according to the form annexed to this treaty; they shall likewise be renewed every year, that is, if the vessel should return home within the space of a year. It is likewise agreed that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place from whence the vessel sailed, and whither she is bound, that so it may be known whether she carries any of the contraband goods specified in the twenty-first article of this treaty; which certificates shall be made out in the accustomed form of the country from whence the vessel sailed; and neither party shall require the exhibition of any papers or documents (the sea-letter and certificates aforementioned excepted) not required by the laws or usages of the party to whose citizens the vessels and their cargoes belong, nor in any other form than the laws and usages of such last mentioned party shall prescribe. And it is expressly stipulated and agreed, that, when the quality of the ship, goods, and master sufficiently appear from the passport and certificates aforesaid, it shall not be lawful for the commanders of armed vessels to exact any further proof, under any pretext whatever; and that when any

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merchant ship shall not be provided with such passport and certificates, such case may be examined by a proper judge or tribunal; and if it shall be found from other documents or proofs that the vessel truly belongs to the citizens of one of the parties, it shall not be confiscated, but shall be released with its cargo, (enemy's property and contraband goods, as aforesaid, excepted,) and be permitted to proceed on its voyage.

If the master of the ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and goods laden thereon shall, nevertheless, be equally secure, and the passport remain in full force.

ART. 24. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war, or by any privateers of the other, for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport concerning the property of the ship, made out according to the form annexed to this present treaty, and also the certificates aforesaid relative to the cargo; and, when the master or commander shall have exhibited such passport and certificates, and there shall not appear among the articles of the said cargo enemy's property, or any articles contraband of war, then such master or commander shall be at liberty to pursue his voyage, so as it shall not be lawful to molest or search his vessel in any manner, or to give her chase, or force her to quit her intended course: And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

ART. 25. It is agreed that, in all cases where vessels shall be captured, or detained by reason of their having on board enemy's property, or carrying to the enemy any of the articles which are contraband of war, the captor shall give a receipt for such of the papers of the vessel as he shall retain; which receipt shall be annexed to a descriptive list of the said papers, and the said vessel shall be brought to the nearest and most convenient port of the country to which the captor belongs; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board such ship, or to remove even the smallest parcel of the goods, unless the lading be brought on shore in the presence of the officers of the Admiralty, and an inventory made by them of the said goods; nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless, after due and lawful process shall have been had against such goods, and the Judge or Judges of the Admiralty, respectively, shall, by sentence pronounced, have confiscated the same, saving, always, as well the ship itself as the other goods found therein; and if, when only part of the cargo shall consist of contraband goods, the master of the ship shall agree, consent, and offer to deliver

them to the captor who has discovered them, in such case the captor, having received those goods as lawful prize, shall forthwith release the ship, and not hinder her by any means from prosecuting her voyage to the place of her destination.

ART. 26. And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master or commander of any captured vessel, or the supercargo thereof, from on board the same, neither during the time that the vessel may be at sea after her capture, nor pending the proceedings against her or her cargo, or any part thereof. And in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew, shall be hospitably treated. They shall not be imprisoned, nor deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding, for the captain, supercargo, and mate, five hundred dollars each; and, for the sailors and passengers, one hundred dollars each.

ART. 27. If it shall appear that the captor bribed, or attempted to bribe, any of the ship's crew or passengers to give any evidence, or make any declaration or disclosure whatever, respecting the vessel, her lading, or destination, or make use of any kind of torture upon the master of the ship, the crew, or others who shall be on board of the same, in such case, whatever grounds there might otherwise be for condemnation, the ship and her lading shall, without delay, be acquitted and restored, with costs and damages; and, also, such shall be guilty of any of the said crimes, as well as their accomplices, shall suffer the most severe punishment suitable to their offences. And, to insure the observance of this article, provision shall be made by law in each country to carry the same into full effect.

ART. 28. It is further agreed that all prizes shall be conducted to a port of the party at war; and, in all cases, the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal or court of either of the parties shall pronounce sentence against any vessel, or goods, or property claimed by the citizens of the other party, the reasons or motives of such judgment shall be entered in the sentence or decree, and a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander or agent of the said vessel without the smallest delay, he paying all legal fees and demands for the same.

ART. 29. When process shall be moved, in the first or second instance, between those that have taken the prizes at sea and the persons interested therein, and the said interested persons shall come to obtain a favorable judgment or decree, the said judgment or decree shall have its execution, upon security given, notwithstanding the appeal of him that took the prize: but the same shall not hold, on the contrary, where the sentence goes against the claimers.

ART. 30. The merchant ships belonging to the

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citizens of either of the two contracting parties which intend to go to a port at enmity with the other, concerning whose voyage and the sort of goods on board there may be just cause of suspicion, shall be obliged to exhibit, as well on the high seas as in the ports and havens, not only their passports, but also their certificates expressing that the goods are not of the kind which are contraband, as specified in the twenty-first article of this treaty.

ART. 31. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and, if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties who have no interest in the said privateer; each of whom, together with the said commander, shall be jointly and severally bound in the sum of — dollars or — francs; or, if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of — dollars or — francs, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit, during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct: and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

ART. 32. It shall not be lawful for any foreign privateers, who have commissions from any other Prince or State in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same, nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

ART. 33. It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences. And all their ships, with the goods or merchandise taken by them, and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors or agents duly deputed and authorized in writing by them, (proper evidence being first given in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by

sale, if it be proved that the buyers knew, or had good reason to believe or suspect, that they had been piratically taken.

ART. 34. Neither party will intermeddle in the fisheries on the coasts of the other, nor disturb the other in the exercise of the rights which it now holds or may acquire of fishing on the banks of Newfoundland, in the Gulf of St. Lawrence, or elsewhere on the American coast northward of the United States of America; but the whale and seal fisheries shall be free to both in every quarter of the world.

ART. 35. It shall be free for the two contracting parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories of each party. Either of the parties may except from the residence of Consuls such particular places as such party shall judge proper to be excepted. Before any Consul shall act as such, he shall be, in the usual forms, approved and admitted by the party to whose territory he is sent; and the said Consuls shall enjoy those liberties and rights which belong to them by reason of their function. And it is agreed that the admission of a Consul by the government of a colony, shall be deemed such a provisional admission as to entitle him to act as such until the will of the Government to which such colony belongs shall be formally made known. And it is hereby declared to be lawful and proper, that, in case of illegal or improper conduct towards the laws or Government, a Consul may be either punished according to law, or dismissed, and even sent back; the offended Government assigning to the other their reasons for the same.

ART. 36. It is agreed that the first twelve articles of this treaty shall be permanent, and that the subsequent articles shall be limited to twelve years, to be computed from the day on which the ratifications of this treaty shall be exchanged.

Nothing in this treaty shall be construed to operate contrary to former and existing public treaties with other Sovereigns or States.

MAY 16.

The following letter was received from the Secretary of State, and, on the next day, the letter under date of the 27th, was prepared, and forwarded with the several enclosures mentioned; duplicates and triplicates of this last despatch were also soon afterwards sent by different routes:

DEPARTMENT OF STATE,
Philadelphia, February 14, 1800.

GENTLEMEN: In your commissions, containing your full powers, you are named "Envoys Extraordinary and Ministers Plenipotentiary of the United States to the *French Republic*;" and you are authorized "to meet and confer with the Minister or Ministers of the French Republic, who shall be appointed and commissioned with equal powers, and with such Minister or Ministers to discuss and settle by a treaty all controversies between the United States and France." Consequently, the circumstance of your letters of credence being addressed to the late "Executive Directory," need

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not prevent or impede the proposed negotiation, provided the existing Government in France are inclined to enter upon it, and to conclude a treaty.

This is the President's opinion, and, by his direction, I now communicate it to you. Indeed, the idea must have occurred to you, it being obvious that a satisfactory treaty, however negotiated, which shall be approved and ratified by the President, by and with the advice and consent of the Senate, will be alike valid as if conducted with the most minute attention to customary formalities.

I am, with great respect, gentlemen, your most obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH, &c.,
Envoys to the French Republic.

PARIS, May 17, 1800.

SIR: We had the honor to write to you on the 18th ultimo, covering all the communications between us and the Ministers Plenipotentiary of the French Republic up to that date, and a duplicate and a triplicate of that despatch have also been forwarded. The quadruplicate of your letter, (No. —,) arrived some time ago, and your letters of the 14th of February and 7th of March were received last evening.

The enclosed copies, marked W. X., will give you the necessary information respecting the progress and present state of the negotiation. As the French Ministers entered on the business of their commission soon after their appointment, and at the seat of their Government, it seems to have been so arranged that they were to receive their instructions on important points as they might become necessary in the course of the negotiations. This duty was naturally attached to the office of Exterior Relations; and our progress has suffered some delay by the sickness of M. Talleyrand, who has been confined by a severe illness from about the 15th of April to the 14th or 15th of this month. You will observe, however, that, even during this period, the business has been pressed forward on our part the whole length of the proposed treaty, with a view of avoiding all useless discussion, of fixing the attention of the Ministers to the real points of difference, and of marking with certainty the progress of the negotiation.

The situation of the army of Italy, commanded by General Massena, has been extremely critical, and has attracted the particular attention of the Premier Consul; and the army of reserve, amounting to about sixty thousand men, has marched to its relief. The French are, however, very successful on the Rhine, and the Government is as yet unshaken; it professes justice and moderation, and appears to be desirous of peace, which, there is some reason to believe, may be the result of the present campaign.

Our success is yet doubtful. The French think it hard to indemnify for violating engagements, unless they can thereby be restored to the benefits of them. Very few American vessels have been brought into European ports since our arri-

val at Paris, and, for some time past, we have heard of none. We know not, however, of any orders of this Government for the restraining of captures, except such as may have been the consequence of the enclosed law, repealing that of the 29th Nivose. Prisoners have been generally released, on a receipt being given by the American agents, promising the discharge of as many French seamen from confinement in the United States.

The court lately established for deciding questions of prize administratively, as it is called, and before which there are many American appeals, has not yet made any decisions.

We enclose, also, the copy of the law repealing the 1st article of the law of the 29th Nivose, and the arrêté of the Consuls respecting their new court, called "le conseil des prises."

We have the honor to be, sir, with great respect, your most obedient servants,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

TIMOTHY PICKERING, Esq.,
Secretary of State.

The following note was received, covering two acts of the French Government:

26th FLOREAL, (16th April.)

The Ministers Plenipotentiary of the Republic have the honor to transmit to the Ministers Plenipotentiary of the United States the documents announced in the postscript to their last note, which had been accidentally omitted.

They pray the Ministers of the United States to accept the assurance of their high consideration.

RÖDERER,
FLEURIEU,
BONAPARTE.

PARIS, May 19, 1800.

The Envoys Extraordinary of the United States have the pleasure to acknowledge the receipt of two acts of the French Government, mentioned in the postscript of the note of the Ministers of the Republic. These papers have been forwarded to the Government of the United States, who, as late as the 7th of March, had received no advices respecting the acts or measures of the present Government of France.

They request the Ministers of the Republic to accept the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

MAY 23.

The French Ministers had frequently mentioned in conversation the insuperable repugnance of their Government to yield its claim to the anteriority assumed to it in the Treaty of Amity and Commerce of 1778; urging the equivalent alleged to be accorded by France for this stipulation; the meritorious ground on which they generally re-

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presented the treaty stood; denying strenuously the power of the American Government to annul the treaties by a simple Legislative act, and always concluding that it was perfectly incompatible with the honor and dignity of France to assent to the extinction of a right in favor of an enemy, and much more so to appear to acquiesce in the establishment of that right in favor of Great Britain. The priority with respect to the right of asylum for privateers and prizes, was the only point in the old treaty on which they had anxiously insisted, and which they agreed could not be as well provided for by a new stipulation. They had, however, transmitted no answer to the note of the Envoys, covering the remaining part of the project of a treaty; and only indirect intimations had been received, that difficulties had arisen, from the limited nature of the instructions of the French Ministers. But, at an interview to-day, the Envoys were officially informed that the negotiation was at a stand on the part of France; that no further progress could be made until other powers* were procured from the Premier Consul, as the tenor of their instructions made the acknowledgment of former treaties the basis of negotiation and the condition of compensation; that the French commission was working upon a report which would be delivered in a day or two to the Minister of Exterior Relations, and forwarded immediately by a courier to the Premier Consul, who had left Paris the 6th of May, and was supposed to be at this time in Switzerland or Italy.

MAY 24.

The Envoys held a conference to-day for the purpose of taking into consideration the information received yesterday, and the critical state of the negotiation; and, considering that the judgment of the Premier Consul would probably be formed upon the impressions made by the report; that the instructions which would be the result might possibly be conclusive; and that, in any event, there might be some difficulty, and certainly delay, in procuring any alteration, it was deemed expedient to transmit the note following, under date of the 25th, with a view to obviate any apprehension that our Government contemplated further grants to their prejudice, and as containing an intermediate ground, conciliatory to the pride of the French Government, without sacrificing the honor or interests of the United States.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, May 25, 1800.

CITIZEN MINISTERS: The undersigned having bestowed the most mature consideration upon the subject so often mentioned with so much interest by the Ministers of the French Republic, and being desirous of guarding against any misapprehension on that head, have thought it expedient to propose the clause enclosed, as an addition to the thirty-second article of their project of a treaty.

Accept, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To be added to the thirty-second article:

Nor will either of the said parties, while they continue in amity, make a treaty with any foreign Sovereign or State, stipulating for the privateers and prizes of such Sovereign or State an asylum in the ports of either, unless they shall have assured to each other such right of asylum for the privateers and prizes of each in the ports of the other.

MAY 26.

The following letter was received from the Secretary of State:

DEPARTMENT OF STATE,
Philadelphia, April 9, 1800.

GENTLEMEN: On the 3d instant Capt. Barry arrived here with your letter, dated at Burgos, on the 10th of February, covering copies of your letters of December 7th from Lisbon, and January 18th from Corunna, and your correspondence with Mr. Talleyrand. These are the first and only despatches received from you since you left the United States. We are happy you escaped the perils of the sea in your attempting a voyage from Lisbon to L'Orient.

The answer of Mr. Talleyrand confirms the opinion expressed in your letter to him, that the circumstance of your letters of credence being addressed to the Directory of the French Republic could be viewed merely as a formality of no moment to the object of your mission. Your powers are full to negotiate and settle by treaty all differences between the United States and the French Republic, and to make commercial arrangements. The person or persons vested with the Executive power of the nation, if really desirous of such an adjustment, could not possibly make any serious objection to the address of your letters of credence, which was perfectly correct at their date. For these reasons, and because no official notice has been received of any change in the form of the Government of France, or in the person administering it, the President does not think it necessary to send any new letters of credence. Mr. Talleyrand having said that "the form of your letters of credence would be no obstacle to the opening of negotiations, of which he ventured to foresee the happy success," must indeed be considered as removing all doubt on the subject.

The ship Portsmouth, Captain McNeil, goes with this letter to Havre de Grace, whence he will send one of his officers to Paris, and receive your orders. The President supposes that by the time of her arrival, your negotiations will be con-

* Speaking on this subject, the French Ministers always used the words "powers" and "instructions" synonymously.

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cluded, and that Judge Ellsworth and Governor Davie will take their passage in her to America. Should your negotiations be still pending, and any reason satisfactory to yourselves, (according to the latitude given in your instructions,) determine you to wait longer in France, you will, at your discretion, either detain or send back the Portsmouth, as you shall think expedient for the public good.

I have the honor to be, with great respect, gentlemen, your obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH, &c.,

Envoys to the French Republic.

JUNE 1.

As the French Ministers had yet made no answer to the notes of the 8th and 25th of May, covering the remaining details of the project of a treaty, the American Ministers thought it would be proper to press them for an answer, or at least an explanation of the cause of their silence; and sent them the following note, which was answered by the note under date of the 16th Prairial:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, June 1, 1800.

Solicitous as are the undersigned, Citizen Ministers, to terminate happily and with promptitude a negotiation which is calculated to promote the interests of the two nations, they invite your attention to their notes of the 8th and 25th of May, and hope to be honored with as early an answer as the state of the business will admit of.

They trust that, while they avow a strong disposition to hasten the great object in view, they will not be chargeable with impatience; the frank development of their views will have been properly estimated.

Accept, Citizen Ministers, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

PARIS, 16 Prairial, (5th June,) year 8.

The undersigned, Ministers of the French Republic, participate with the Envoys Extraordinary and Ministers Plenipotentiary of the United States, in the desire which they express, in their note of the 12th of this month, that the negotiation with which they are respectively charged should be brought to a speedy and favorable issue. The Ministers of France, in acknowledging the receipt of the note which the Ministers of the United States were pleased to address to them, the 18th Floreal, have had the honor to state that the examination of its contents would occasion some delay. That note has been since that time the subject of their most serious attention. After mature deliberation, they considered the propositions it contained of a nature to require submission, for ultimate decision, to the Government of the Republic. The Ministers Plenipotentiary have, there-

fore, transmitted it to the Minister of Exterior Relations, by whom they are informed that he has himself deemed it necessary to take the direction of the First Consul. As soon as the undersigned shall have received the expected instructions, they will hasten to transmit their answer to the Envoys Extraordinary and Ministers Plenipotentiary of the United States.

Meanwhile, the undersigned pray the American Ministers to accept the assurance of their perfect consideration.

BONAPARTE,
FLEURIEU,
RÖDERER.

JULY 5th.

The following letter was received from C. Lee, Esq., acting as Secretary of State:

DEPARTMENT OF STATE,
Philadelphia, 22d May, 1800.

GENTLEMEN: Since the letter at Burgos, 10th February, which was received early in April, the President has not had the pleasure of receiving a letter from any of the Envoys to the French Republic. But by various European gazettes, intelligence has reached him of your safe arrival in Paris, in the beginning of March, and, before many days shall elapse, he hopes to receive information from you upon the subject of your mission.

The unexpected and unavoidable delays after you left Lisbon may possibly have the consequence of your retarding your return home so long that this letter will find you at Paris; and, in contemplation of such a possibility, it is written.

Congress adjourned on the 14th instant. The most material acts of the session were the following:

An act on the subject of bankruptcies.

An act to authorize the President to borrow three millions and a half of dollars.

Sundry acts continuing the system of maritime defence, and the prohibitions of commerce in regard to the French Republic, and her dominions, as they stood at the commencement of the session.

And an act for disbanding the additional twelve regiments, excepting the artilleryists, and engineers, part thereof, on or before the 15th of June next.

Whatever may be the result of your negotiation, in the present state of France and the United States, this part of the military establishment was not deemed indispensably necessary. A considerable saving of money would be the immediate consequence; and if your negotiation should fail to restore peace and harmony between the two countries, a greater portion of the resources of the United States would remain to be expended more advantageously than in the support of an army. This alteration in the defensive system was very generally approved in the Senate and House of Representatives, just before the session was closed.

The judicial system remains as it stood. Our country is at present blessed with the prospect of a most plentiful harvest of wheat and rye, and the

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losses of our merchants arising from depredations are considerably diminished. I am instructed to express the President's hope that your réception at Paris has been agreeable, and that your mission has been accomplished in a manner entirely satisfactory, or, if not accomplished, that the negotiation is near a happy conclusion; and, at the same time, to add his wishes that you may soon return in health and happiness to the bosom of our beloved country. I have the honor to be, &c.

CHARLES LEE,
Acting Secretary of State.

The American Ministers having been officially advised that their notes of the 8th and 25th of May, with the details accompanying them, had been submitted to the Minister of Exterior Relations, were also soon afterwards confidentially informed that the whole business was referred to the decision of the Premier Consul, who was then in Italy; and about the — of June, Joseph Bonaparte, President of the Commission, set out for the headquarters of the Army. The object of his journey to the Premier Consul was not publicly known, nor was his departure announced to the American Ministers. The battle of Marengo took place on the 14th day of June, and the Premier Consul returned to Paris the 3d of July; Joseph Bonaparte also arrived a few days afterwards. While the American Ministers sincerely regretted the delay occasioned by the above unexpected circumstances, they supposed it probable that the Premier Consul might not have had sufficient leisure, amidst the active operations of the armies, to determine upon the several matters respecting the treaty, and that his decisions and instructions might have been postponed until his return to Paris. At a meeting, however, on the 6th of July, they were of opinion that they had then made a proper allowance for all circumstances that might have countenanced delay on the part of the French Ministers, and addressed to them the following note:

PARIS, July 6, 1800.

CITIZEN MINISTERS: Presuming, as the undersigned Envoys Extraordinary and Ministers Plenipotentiary of the United States do, that you are now acquainted with the ulterior views of your Government, respecting the negotiation between the United States and the French Republic, they request the honor of a conference on that subject, at such time and place as may be most convenient for you. They trust that the unfortunate delays, which have hitherto attended the business, will justify their hopes of bringing it to a speedy close.

Accept, Citizen Ministers, the assurance of their high consideration,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To MESSRS. JOSEPH BONAPARTE, FLEURIEU, and RÖDERER.

The next day the American Ministers were invited to dine on the 11th with the President of the

French Commission; and, as no answer had been received to the note of the 6th, it was agreed that the 11th should be considered by them as the time appointed for the conference; the object of which, on their part, was to ascertain the difficulties which seemed to have arrested all progress on the part of the French Ministers; to designate, with more precision, the real grounds of difference; and, if possible, to adopt some arrangement that would accelerate the negotiation. On the 11th, before dinner, M. Bonaparte informed them that the whole business of the treaty was now under the consideration of the Premier Consul, and that his decisions and instructions were expected in the course of a few days, when the notes and propositions received would be immediately answered. The American Ministers repeated their regret at the long delay which had taken place; and, upon their expressing the desire that a conference should be held that evening, the French Ministers readily consented. After the objects of requesting an interview were stated, the President of the French Commission said they would frankly state the difficulties which had arisen with their Government: although they had not received officially its determination of instructions, they believed they were possessed of its present sentiments and opinions, and could not avoid adding that they accorded with those of the Commission. He then declared that it was the decided opinion of the Premier Consul that the ancient treaties ought to be the basis of negotiation; that compensation could only be a consequence of the existence of the treaties, and the re-establishment under them of the former privileges and relations; and that he would never consent to make a treaty which would surrender the exclusive rights of France, in effect, in favor of an enemy; or, in any event, make a treaty with the United States, which would not place France on a footing of equality at least with Great Britain. He thought it would be derogatory to the present Government to make a treaty, less advantageous and less honorable than that made by the royal Government. Discussions of some length took place on the most important points: but, as the whole business, on the part of the French Ministers, was under reference to their Government, no point could of course be settled; and the conference closed with the request of the French Ministers that all they had said should be considered merely as confidential.

After several deliberations on the difficulties which had now completely arrested the progress of the negotiation, and the selection of some expedient which might remove them, the American Ministers at length determined to request an early interview, and make a proposal to the effect that the payment of the indemnities should be suspended until the Government of the United States should have offered to France an article, re-establishing her in the exclusive privileges she claimed, under the treaty of 1778. It was considered that the American Government might or might not perform the condition, after a further view of the political state of Europe, and the possession of more ample means to estimate a promise of in-

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demnity. It was also clearly perceived that, unless the indemnities were secured by some means under the present negotiation, they would be forever lost.

JULY 15.

At an interview to-day with the French Ministers, the following proposition was delivered to them in writing:

"Indemnities to be ascertained and secured in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article, stipulating free admission into the ports of each for the privateers and prizes of the other, and the exclusion of those of their enemies; nor unless the article be offered within seven years: such article to have the same effect, in point of priority, as a similar provision had in the treaty of 1778.

"JULY 15, 1800."

The circumstances which motived the proposition and its principle were briefly explained on the part of the American Ministers, who concluded by adding, that an answer was not expected at that interview. There was, however, no difficulty in perceiving, that the first impression was not perfectly satisfactory to the French Ministers; their observations took the same course they had done the preceding conference, and were answered on the same principles. Upon the American Ministers expressing their wish to receive an answer to this and their former propositions as speedily as possible, the French Ministers repeated their professions on that head; adding, that the observations they had made in these interviews were to be considered as merely hypothetical and unofficial.

JULY 20.

Meeting the French Ministers to-day at M. Roderer's, it was agreed to press them again officially for an answer. An interview took place after dinner, and M. Bonaparte said that he had seen the Minister of Exterior Relations that morning, on the business of the negotiation; and that he was assured that in a few days they should receive the decision and instructions of their Government.

JULY 23.

The American Ministers, having taken into consideration the importance of the discussions which took place at the late interviews, thought it expedient to address the following note to the French Ministers:

PARIS, July 23, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

CITIZEN MINISTERS: The Envoys of the United States being apprehensive lest possibly their remarks to the Ministers of the French Republic, in the two last conferences which led to and accompanied their written proposition, may not have been fully comprehended, from being expressed in a language but imperfectly understood, they have

thought proper to reduce the substance of them to writing.

As to the proposition of placing France, with respect to an asylum for privateers and prizes, upon the footing of equality with Great Britain, it was remarked, that the right which had accrued to Great Britain in that respect, was that of an asylum for her own privateers and prizes, to the exclusion of those of her enemies; wherefore, it was physically impossible that her enemies should at the same time have a similar right.

With regard to the observation, that by the terms of the British Treaty the rights of France were reserved, and, therefore, the rights of Great Britain existed with such limitation as would admit of both nations being placed on a footing which should be equal, it was observed by the Envoys of the United States, that the saving in the British Treaty was only of the rights of France resulting from her then existing treaty; and that that treaty having ceased to exist, the saving necessarily ceased also, and the rights, which before that event were only contingent, immediately attached and became operative.

With respect to the supposition that the treaties with France yet continued to exist, it was remarked, that a treaty being a mutual compact, a palpable violation of it by one party did, by the law of nature and of nations, leave it optional with the other to renounce and declare the same to be no longer obligatory, and that, of necessity, there being no common tribunal to which they could appeal, the remaining party must decide whether there had been such violation on the other part as to justify its renunciation. For a wrong decision it would doubtless be responsible to the injured party, and might give cause for war; but, even in such case, its act of public renunciation, being an act within its competence, would not be a void but a valid act; and other nations, whose rights might thereby be beneficially affected, would so regard it: that it had become impossible for the United States to save their commerce from the depredations of French cruisers, but by resorting to defensive measures; and that as, by their Constitution, existing treaties were the supreme law of the land, and the Judicial department, who must be governed by them, is not under the control of the Executive, or Legislative, it was also impossible for them to legalize defensive measures, incompatible with the French Treaties, while they continued to exist. Then it was that they were formally renounced, and from that renunciation there resulted necessarily a priority in favor of the British Treaty as to an exclusive asylum for privateers and prizes. A right, indeed, which she has made little use of, and with respect to which it would be un consequential, during the remainder of the present war, whether she or France possessed it; but as it was a vested right, neither the Government of the United States nor their Ministers could, with good faith, stipulate to France a right inconsistent with it.

To the still further suggestion that the law of nations admitted a dissolution of treaties only by mutual consent or war, it was remarked by the

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undersigned, that their conviction was clearly otherwise; and that *Vattel*, in particular, the best approved of modern writers, not only held that a treaty violated by one party might for that reason be renounced by the other, but that, when there were two treaties between the same parties, one might be rendered void in that way, and the other remain in force: whereas, when war dissolves, it dissolves all treaties existing between the parties at the time.

It appearing, however, to be the ultimate opinion of the French Ministers that it did not comport with the honor of France to be deprived of that right, and at the same time to be called upon for compensation, the undersigned, solicitous for the honor of France as well as of America, devised and offered, as their last effort, the written proposition alluded to, which, it was conceived, did essentially remove the difficulty. Its object was to suspend the payment of compensations, a consideration of much weight in the estimate of the United States, until France could be put into complete possession of the privileges she contended for; and, at the same time, to give that security, which a great pecuniary pledge would amount to, for her having the privilege, as soon as it could be given with good faith, which might, perhaps, be in a little more than two years, and at any rate within seven.

Accept, Citizen Ministers, the assurance of their high consideration.

OLIVER ELLSWORTH.
WILLIAM R. DAVIE.
WILLIAM V. MURRAY.

The following answer was received:

PARIS, 8th Thermidor,
(26th August,) year 8.

The Ministers Plenipotentiary of the French Republic have received the note dated 23d July, 1800, (4th Thermidor, year 8,) which the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America have been pleased to address to them.

That note has two objects:

The first, to recapitulate the answers which had been given by the Ministers Plenipotentiary of the United States, at two former conferences, to the remarks then made by the Ministers Plenipotentiary of France, on the subject of the right of asylum, in the ports of the United States and France, which has been assured to the privateers and prizes of both nations, reciprocally, and exclusively, by the Treaty of 1778; a right which the Ministers Plenipotentiary of the United States maintained had been annulled between France and the United States, and established, to the injury of France, between the United States and England.

The second object of the note is, to explain the propositions, made by the American Ministers, at the last conference, by which they offered to stipulate that the indemnities which may be due to the United States, "shall not be paid, until the United States shall have offered to the French Republic an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, and the exclusion of those of their enemies;

and, moreover, that these indemnities shall not be paid unless the article shall be offered within seven years: such articles to have the same effect, in point of priority, as a similar provision in the Treaty of 1778."

As to the first object, the Ministers of the French Republic are compelled to repeat, that their instructions, predicated on the complete recognition of the ancient treaties, leave them no power to consent to the extinguishment of a right, confirmed by the Treaty of 1778, by which the privateers of the two nations, respectively, are allowed to enter the ports of each other; and, least of all, to consent to the incorporation of that right with the existing relations between the United States and Great Britain.

But being convinced that the true interest of France is closely connected with that of the United States, and that the prosperity of the United States mainly depends on their complete independence; being convinced, also, that an exclusive right, conferred by one nation upon another, to bring prizes into her ports, has a tendency to compromise tranquillity, and by that means endanger independence: inasmuch, as, in a number of cases, causes either of complaint or of distrust must be given to the Power from whom prizes have been taken; the undersigned hasten to repeat to the American Ministers the proposition already made, that, in the event of a reconciliation being effected, they will consider it their duty to urge upon their Government to abolish the exclusive right to enter the ports of each other, with privateers and their prizes; and to limit their privilege to that enjoyed by the most favored nation. They believe that France would do herself honor by the voluntary sacrifice of a privilege prejudicial to her allies; but that, to consent to be despoiled of that privilege, for the benefit of an enemy, without thereby contributing to American independence, would exhibit to the world a striking instance of self-degradation.

The Ministers of France cannot discover, in the note of the 23d July 1800, any reason to incline them to the supposition that the treaties between France and the United States* are abrogated.

When on the one hand, Congress declare that France has contravened these treaties, and that the United States are released from their stipulations; and when, on the other, the Government of France declares that she has conformed to these treaties, that she desires their execution, and that the United States alone have infringed them; where is the tribunal or the law to enforce the exoneration, in preference to the execution?

So long as a difference exists between two contracting parties, respecting the existence or abrogation of a treaty, no right or benefit can result to a third party from the abrogation contended for by one.

If France had declared the treaties annulled, and

* The act of Congress of July 9, 1798, is the declaration of one of two parties; but the treaties were the work of two. A compact formed by two can be destroyed by one in no other way except by war and victory.

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the United States had maintained their validity. England would have no ground for saying to America, "We succeed to the rights of France." There is no foundation, even for a doubt, whether a treaty is cancelled by the declaration of its abrogation made by one only of the parties.

These reflections are in conformity with the doctrines advanced by all writers upon the laws of nations. The opinion of *Vattel* can only be understood of a nullity in point of right, not of a nullity in fact; and it is only a nullity in fact that can give an opening, respecting the claim of anteriority, to rights resulting to a third party.

These reflections, moreover, arise from the very nature of things. If one of two contracting parties is at liberty, whenever he may please, to cancel his obligations, in virtue of his own judgment concerning facts, or men, or things, no binding force can be attached to treaties, and the term itself should be erased from every language.

If the right of anteriority can be destroyed, to the prejudice of the nation that possesses it, by the sole act of one of the parties by whom that right has been recognised, it must be acknowledged as a principle, that the nation making the second treaty converts the one with whom she first contracted into an enemy; and that she may be certain of being despoiled by that enemy whenever the time may be propitious for an open explanation.

The Ministers Plenipotentiary of the French Republic refrain from pursuing these observations. What has been said will already suffice to establish the rights of France and to insure to herself the honor of a sacrifice which she would make by renouncing the exclusive right under which the privateers of France, together with their prizes, are entitled to enter the American ports.

Passing to the second object of the note, the Ministers of France observe, that the proposition of the American Ministers offers to the Republic, at a remote period, the hope of enjoying exclusive advantages, of which, in the mean time, they think that France should not be jealous; and at the present moment, perhaps for seven years to come, it tenders the humiliating forfeiture of privileges acquired by effective services to America in time of war, and a degrading inferiority to a rival Power, at whose expense these privileges were first obtained. When the Ministers of France shall subscribe to a condition so unworthy of the French nation, the price of her humiliation will assuredly not be the simple postponement of a state of subjugation, which she regards as inconsistent with the interests of the United States. The dependence of her allies will never be considered a suitable indemnity for the wrongs she may endure. The Ministers of France, believing it their duty to recommend to their Government the surrender of a privilege honorably acquired, might be charged with inconsistency if they should prudently provide for its restoration at a distant period.

The Ministers Plenipotentiary of the French Republic can, therefore, only await the final determination of their Government; and, whenever received, they will hasten to transmit it to the Ministers Plenipotentiary of the United States.

They have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
FLEURIEU,
RÖDERER.

AUGUST 11.

The following note was received from the French Ministers:

PARIS, 23 *Thermidor*,
(11th August,) year 8.

The Ministers Plenipotentiary of the French Republic have received from their Government the new instructions which they thought themselves obliged to ask, when they were informed, by the unexpected note of the Ministers Plenipotentiary of America, that the United States consider their treaties with France as annulled, and that the validity of these treaties could not be recognised, with all the advantages attached to their date. The French Ministers hasten to present to the Ministers of the United States the reflections and overtures which the actual state of the negotiation appears to demand.

In the first place, they insist upon the principle already established in their former note, viz: that the treaties by which France and the United States have been united are not annulled; that war itself could not have annulled them; and that the misunderstanding which, through the agency of individuals more than the intention of the respective Governments, has for some time existed between France and the United States, has not constituted a state of war, at least on the part of France.

If the reflections presented by the French Ministers on this subject, in their note of the 8th instant, have been sufficient to induce the American Ministers to admit the validity of these treaties, it would follow, as a necessary consequence, that the Ministers of France would hasten to renew the declaration that the parties should be reciprocally indemnified for injuries mutually sustained during the existence of that misunderstanding. If the treaties are preserved unimpaired, as originally concluded, it would be just and proper to extinguish even the remembrance of the recriminations which have occurred during the period of their existence.

The first proposition, then, of the Ministers of France, is to stipulate a full and entire recognition of the treaties, and a reciprocal promise of indemnities for the damages resulting, on the part of either, from their infraction.

If the American Ministers shall continue to believe that they possess no authority to recognise the validity of the ancient treaties, with the advantage arising from their date; if it shall appear that France has been only deceiving herself with delusive hopes, while relying upon an uninterrupted friendship with the United States; and that, in consenting to indemnify the injuries committed by a few privateers and some unauthorized agents, she has made only a useless display of her sacred adherence to her own engagements; the Govern-

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ment of France will, nevertheless, consent to the abrogation of the treaties; and with the less reluctance, because the American Ministers have appeared to consider some of their stipulations as incompatible with the perfect independence of the United States. Such is the provision referred to in the note of the American Ministers of the 18th Floreal, (8th May,) in which the desire is expressed to restrict the privateers of foreign nations, within the ports of the United States, to the rights of hospitality, in order to liberate the commerce of the United States from every restraint, and free their political relations from all connexion with the interests and passions of the belligerent Powers. The Government of France is convinced that it is only a complete independence than can advance the United States to the highest point of prosperity; and it agrees to make a willing sacrifice of advantages which may endanger that independence, however ample the equivalent by which they were acquired, and with whatsoever reciprocity or services it may have been repaid.

They, therefore, declare that the demands concerning the treaties, and the offer to repair the damages arising from their infraction, if an infraction has taken place, (a demand dictated by a scrupulous fidelity to engagements, and, at the same time, advantageous to the United States,) will now easily give place to the views, dictated by considerations of interest, independence, and security, with which they are now occupied: they especially declare, that they will not refuse to relinquish the exclusive privilege enjoyed by the privateers of France, to carry their prizes into the ports of the United States. Whilst, however, the Ministers of France acquiesce in the nullity of the treaties, they cannot conceal from themselves that the act of the United States, by which their abrogation has been declared, has been an unequivocal provocation to war; that the hostile acts, by which this provocation has been followed, increasing in number and publicity, even after France had removed every just cause of complaint, were nothing less than war; that France had desired to be insensible to the real state of her extraordinary relations with the United States; in a word, that a new treaty between France and the United States ought to be preceded by a treaty of peace. If the correctness of these observations is admitted, it would seem, that the two Governments ought to be occupied no longer with their respective losses: the rights of war acknowledge no obligation to repair its ravages: their consideration even is prohibited by national honor, since the State inflicting the greatest injury would, by making compensation, acknowledge a victor and purchase peace.

As to the rest, it must be perfectly understood that, in acquiescing in the annulment of these treaties, the French Government intends only to renounce the privileges which these treaties assured to France; and that France will never submit to be placed, in her relations with the United States, on a footing inferior to that of any other Power. She would renounce, without regret, the exclusive advantages she has enjoyed, but she cannot consent that other Powers shall enjoy the same ad-

vantages to her prejudice. She would relinquish freely the right she has acquired, but she will never acknowledge the right of another, founded on the destruction of her own. This she owes to her own character, and even to the prosperity of the United States. If it is the wish of the United States to be liberated from engagements which weigh, perhaps, too heavily on their national independence, they ought to desire the loosening of their fetters, in order to assume a more erect and imposing attitude, and not for the purpose of being bent with equal force in the opposite direction.

The second proposition of the Ministers of France, in case the former shall not be accepted, will then be the abrogation of ancient treaties; the formation of a new treaty, in which the French nation, abandoning a privilege inconvenient to the United States, shall be placed, in her political and commercial relations, on an equal footing with the most favored nation; and an entire silence on the subject of indemnities.

Thus, the proposition which the Ministers of France have the honor to communicate to the Ministers Plenipotentiary of the United States is reduced to this simple alternative:

Either the ancient treaties, carrying with them the privileges resulting from anteriority, together with stipulations for reciprocal indemnity;

Or a new treaty, promising equality, unattended with indemnities.

In this double overture, and the explanation accompanying it, the Ministers of the United States will, without doubt, perceive the desire of the French Government to terminate the negotiation in a manner satisfactory to the United States.

The French Ministers have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
REDERER.

AUGUST 15.

The following letter was written to the Secretary of State, and forwarded by the Franklin, sailing from Bordeaux:

PARIS, August 15, 1800.

SIR: Having ascertained, by an interview with the French Ministers, soon after our note to them of the 8th of May, a copy of which you have doubtless received, that, as we refused to assume the former treaties, they could proceed no further with our new instructions, and that a report on the state of the negotiation was preparing for the Minister of Exterior Relations, and ultimately for the Premier Consul; we judged it expedient, in order to obviate an apprehension that our Government contemplated further grants to the prejudice of France, and to diminish the hazard of sending off the business to the Premier Consul, then with the army in Switzerland, who, in a moment of agitation, might decide definitely upon it, to propose the following clause as an addition to the 32d article of our project, viz: "Nor will either of the said parties, while they continue in amity, make a treaty

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with any foreign Sovereign or State, stipulating for the privateers and prizes of such Sovereign or State, an asylum in the ports of each other, unless they shall have assured to each other such right of asylum for privateers and prizes of each in the ports of the other:" and it was accordingly sent with the note marked A.

Embarrassing as the delay for new instructions was seen to be, it was nevertheless deemed inexpedient, in the then critical state of European affairs, to treat it as a studied delay.

On the 1st of June, we addressed the note marked B, and on the 5th, received an answer marked C.

Soon after the Premier's return from Italy, the note marked D was sent.

The requested interview took place on Friday, the 11th July; and although the French Ministers declared that they had not received further instructions, yet, as they expressed a willingness to converse upon the subject, a conversation was entered upon, which had for its object to ascertain with more precision the grounds of difference between us. Their observations led to, and finally terminated in, this position: that, to be deprived of her former privileges in the ports of the United States, and that, too, in favor of an enemy, and at the same time to be called upon for compensation, was derogatory to the honor of France.

At a further interview, on the 15th July, we brought forward, in order to remove what seemed to be the difficulty at the interview, on the 11th July, a written proposal to suspend the actual payment of indemnities, on the condition of replacing France in the privileges she contended for. A condition which our Government might or might not perform, after it should have further seen the political state of Europe: and also been better able to estimate a promise of indemnity. The proposition was as follows, viz: "Indemnities to be ascertained and secured, in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article, stipulating free admission in the ports of each for the privateers and prizes of the other, to the exclusion of her enemies; nor unless the article shall be offered within seven years, such article to have the same effect, in point of priority, as a similar provision had in the treaty of 1778."

An immediate reply to the proposition was not pressed or wished; there was no difficulty, however, in perceiving that the impression was not perfectly satisfactory.

On the 23d of July, the note was sent, marked E, which throws some further light on the two preceding conferences.

The note marked G, purporting to be predicated on the new instructions, was received the 11th of August. This note is now under consideration, and will not be formally answered, till there has been an interview to ascertain some points.

It has however become manifest, that the negotiation must be abandoned, or our instructions deviated from. Should the latter be ventured upon, which, from present appearances, is not improbable, the deviation will be no greater than a change of circumstances may be presumed to justify.

The success of the French in Italy has produced an armistice, and has since opened with the Emperor a negotiation for peace, which is still pending. The result is daily and anxiously expected.

Captain McNeil, with the Portsmouth, arrived safe at Havre on the 23d of May, where he yet remains. The despatches sent by him were duly received. We are, &c., &c.,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

An interview took place with the French Ministers on the subject of their note of the 23d Thermidor, for the purpose of ascertaining with more precision their views on some points which were supposed to be covered under the general terms of their note. The conference was opened on the part of the American Ministers in a manner which they supposed would entitle them to the utmost candor and frankness. The French Ministers were, however, extremely reserved, answering with great caution to every inquiry in the general terms of their note. The result of the conference was, of course, little satisfactory to the American Ministers, who were consequently obliged to consider the French note in the general terms of its text. It now became necessary to decide whether the negotiation should be broken off, or the instructions departed from; whether the treaties should be revived, or the indemnities sacrificed; and, if the treaties were revived, whether, after considering the text of the French note, and the obstinacy with which the Ministers adhered to it, an attempt should be made to effect a modification that might enable Government to extinguish the exclusive privileges of France under the Treaty of Amity and Commerce, as well as her claims under the Treaty of Alliance. The following note became the result of the several deliberations and discussions on these points, and was sent to the French Ministers on the 20th of August:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, August 20, 1800.

CITIZEN MINISTERS: The undersigned Ministers have been honored with your note of the 23d Thermidor.

It adds to the regret, occasioned by three months' delay for further instructions, that they confirm the obstacles which had brought the negotiation to a stand.

To abandon indemnities would be illy to select the means of restoring France to the confidence of a nation, too long accustomed to revere and practise justice ever to forget its demands. Nor could America ever conceive that, protecting from depredations her property which remains, had impaired a claim for that of which she has been despoiled. More difficult still of comprehension would it be, that she had aggressed by declaring the truth: for, doubtless, declaring that treaties ceased to bind her which the other party had long and greatly infringed, was no more. If, however,

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that declaration, as necessary for judicial purposes as it was conformable to truth, had amounted to a cause of war, yet, as the wisdom of France reconciled it to peace, its application on the principle of war to the extinguishment of claims would be inexplicable; and even as to war itself, though it does by its rights, or rather by its usages enforced against weaker Powers, merge the injuries it operates, it does not cancel obligations prior to its existence. If war had actually commenced when it is suggested there was cause given, still, how could its rights be seen to extinguish the claims of America, as the mass of her sufferings was at a time when her conduct towards France was remarkable for nothing but the patience with which she endured, and the moderation with which she sought to remove them?

If, in applying the principle, or exercising the natural right of self-defence, in a state of things now mutually and equally lamented, certain events have taken place, which might be regretted when considered in connexion with their cause; if these events have been attended with a sensation which the French Ministers are pleased to term "eclat," they will have candor enough to admit that this sensibility was natural among men sore by repeated losses, and citizens who had thought their country degraded by her patience and long suffering. A mutual stipulation, however, of restoration or indemnity will save the honor of both nations, and efface with the hand of justice every irritating remembrance. It is but proper here to remark, that if the action, or the notice of it, to which the French Ministers Plenipotentiary have particularly alluded, betaken in connexion with dates and distances, the American Government cannot be charged with neglecting to avail itself of conciliatory measures.

In a word, while nothing would be more grateful to America than to acquit herself of any just claims of France, nothing could be more vain than an attempt to discover to her reasons for the rejection of her own.

It is time for the two nations to return from a state of things difficult to name, and more difficult to account for, to the correcter views of '78; to the confidence inspired by co-operating for an object equally interesting to both; to that spirit which disavowed the idea of founding pretensions on exertions; and, finally, to that friendship which knew not the alloy of purchase.

Too much concerned with that epoch not to recollect its professions, and too confident in the wisdom of those professions to despair of their fruits, the American Ministers have persevered in efforts for a reconciliation. To remove obstacles interposed, they have developed their views and their doubts with more frankness than effect. To go further, they must take on themselves a high responsibility.

If, then, the dignity of one party cannot be satisfied with a recognition of former treaties, still less can the interests of the other dispense with a re-modification of them.

The seventeenth article of the Commercial Treaty, which stipulated an exclusive admission

for the privateers and prizes of each in the ports of the other, was but nominally reciprocal; not only because America would seldom be at war, but also by reason of the prior engagements of France under the Treaty of Utrecht, then in force, and since renewed. The real reciprocity of that article was to be sought for in another, which made free goods in free ships—a stipulation greatly beneficial for the United States could they have enjoyed it. This stipulation, however, proved inconvenient to France, as appeared from her defeating the use of it so early in the present war; and for that reason, the undersigned Ministers, in their project of a treaty, proposed to give it up, trusting that it would be deemed a full equivalent for abandoning, on the part of France, the first mentioned privilege stipulated to her.

The American Ministers have shown, in their note of the 8th May, that the free admission of privateers is inconvenient to the United States, and the Ministers Plenipotentiary of France have reasoned, in a note of the 8th Thermidor, and assumed in others, that an exclusive admission of those of one nation compromises their independence. France, then, will not insist on that privilege for herself, exclusively and forever. She will not embarrass that progress to greatness, which, with so much reason and so much solicitude, she seeks to cherish; nor, least of all, compromise the independence she guaranties. Doubtless, upon a review of this claim, her Ministers will be satisfied with the footing of the most favored nation; and, as to rights beyond that, will relinquish them gratuitously, or, at most, on terms not difficult to be complied with.

With respect to the eleventh article of the Treaty of Alliance, it has produced mischievous apprehensions, and never can produce an effect which will not contravene its professed design. If France should not discern the utility of relinquishing this article, she will acquiesce in a specification which may render it less incompatible with her policy.

If the American Ministers, in attending to the note before them, have avoided retracing the measures of the late French Government, which forced the United States to take the defensive position in which the present negotiation found them; if they have declined to renew former discussions, or have not availed themselves of the opportunity of commencing others; it is because time has become precious with them, and because also they yet think it may be more useful to search for means of healing the breach than for the causes which produced it.

As a further effort on their part to ascertain those means, they make the following propositions, predicated on the adoption of the first alternative in the overture of the French Ministers Plenipotentiary.

1. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two Powers had intervened, except so far as they are derogated from by the present treaty.

2. It shall be optional with either party to pay to the other, within seven years, three millions of

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francs, in money or securities, which may be issued for indemnities, and thereby to reduce the rights of the other as to privateers and prizes, to those of the most favored nation; and, during the said term allowed for option, the right of both parties shall be limited by the line of the most favored nation.

3. The mutual guaranty in the Treaty of Alliance shall be so specified and limited, that its future obligation shall be, on the part of France, when the United States shall be attacked, to furnish and deliver, at her own ports, military stores to the amount of one million of francs; and on the part of the United States, when the French possessions in America in any future war shall be attacked, to furnish and deliver, at their own ports, a like amount in provisions.

It shall, moreover, be optional for either party to exonerate itself wholly of its obligations, by paying to the other, within seven years, a gross sum of five millions of francs, in money, or such securities as may be issued for indemnities.

4. The articles of commerce and navigation, except the seventeenth article of the treaty, shall admit of modifications, reserving for their principle the rights of the most favored nation, where it shall not be otherwise agreed, and be limited in their duration to twelve years.

5. There shall be a reciprocal stipulation for indemnities, and these indemnities shall be limited to the claims of individuals, and adjusted agreeably to the principles and manner proposed by the American Ministers in their project of a treaty heretofore delivered, except where it shall be otherwise agreed. Public ships taken on either side shall be restored or paid for.

6. All property seized by either party, and not yet definitively condemned, or which may be seized before the exchange of the ratifications of the present treaty, shall be restored on reasonable, though it should be informal, proof of its belonging to the other, except contraband goods of the United States destined to an enemy's port. This provision to take effect from the signature of the treaty; and if any condemnations should take place contrary to the intent of this stipulation, before knowledge of the same shall be obtained, the property so condemned shall be paid for without delay.

The Ministers of the United States pray the Ministers of the French Republic to accept the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

AUGUST 25.

The following note and propositions were received from the French Ministers:

PARIS, 7th Fructidor, (Aug. 25,) year 8.

The Ministers Plenipotentiary of the French Republic have received the note which the Ministers Plenipotentiary of the United States have done them the honor to address to them the second of the present month.

They cannot regard the overtures therein con-

tained as complying with the first part of the proposed alternative. In reality the first of the propositions offered to the option of the American Ministers was, that the United States should explicitly recognise the treaties they had concluded with France, with all the advantages attached to their date. In the last conference, which took place the 25th Thermidor, (13th August,) it was well understood, and even reduced to writing, that this part of the alternative should particularly exclude every idea of a modification extending to the contested points of the negotiation, and especially to the privilege assured to the French nation, in relation to other Powers. Nevertheless, the note of the American Ministers proposes an important modification of the seventeenth article: whence, it is evident that this note applies to the second branch of the alternative, which consisted in offering a new treaty without indemnity.

The French Ministers might here insist upon the condition, that every stipulation on the subject of indemnities should be laid aside. Nevertheless, France will give the United States a new proof of her friendly disposition, in consenting to the modification of the treaties, and also to the principle of indemnities, in the manner expressed in the subjoined note; in which the U. States will discover undoubted proofs of the desire of France to effect a speedy and complete reconciliation.

The Ministers of the French Republic have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RÖDERER.

1. The ancient treaties shall be continued and confirmed; and they shall be carried into execution, in the same manner as if no misunderstanding had taken place between the two nations.

2. Commissioners shall be appointed to liquidate the respective damages.

3. The seventeenth article of the Treaty of Commerce of 1778 shall be preserved inviolate, with the single addition, at the end of the following words: "on the contrary, no shelter or refuge shall be given in their ports or harbors to such as shall have made prize of the subjects, people, or property of either of the parties;" "except in virtue of treaties known at the time of the signature of the present treaty, and subsequent to the treaty of 1778; and this for the space of seven years."

The twenty-second article to contain the same exception as the seventeenth.

4. If, in the space of seven years, the seventeenth and twenty-second articles shall not be offered and accepted in their original force, the indemnities awarded by the Commissioners shall not be paid.

5. The guaranty, stipulated by the Treaty of Alliance, shall be converted into a promise of succor, to the amount of two millions; but this promise shall not be redeemable except by a capital of ten millions.

BONAPARTE,
FLEURIEU,
RÖDERER.

Relations with France.

AUGUST 24.

As the French Ministers dined to-day with Mr. Ellsworth and Mr. Davie, they were requested to attend a conference after dinner, for the purpose of giving some explanations of the propositions subjoined to their note. Mr. Bonaparte and Mr. Fleurieu, mentioning that they had some urgent business at the council, went away, leaving Mr. Rœderer authorized to give any explanation required. After a conversation of some length, during which Mr. Rœderer discovered how unsatisfactory those propositions were to the American Ministers, he suggested the following idea for consideration, viz: "that the option contained in the note of the American Ministers, to extinguish by an equivalent of eight millions of francs certain claims of France under the former treaties, ought to be reciprocal; so that, if the offer should be made by either party, the other should be bound to accept it;" saying that this suggestion ought not to be considered official, as his colleagues were not consulted.

The next day it was reduced into the form of an article, and shown to Mr. Rœderer, to know whether the principle of his proposition was correctly taken; and upon its being stated to him in the form it was supposed to be made the preceding evening, and upon the article being translated, he admitted that he was correctly understood; and then delivered another proposition, which he said had been approved by the Minister of Exterior Relations, to the following effect:

"If, in the space of seven years, the renewal of the 17th and 22d articles, in their full meaning, shall not be offered, the indemnities which the Commissioners may award shall not be paid; and if the renewal of the 17th and 22d articles, in their full meaning, shall be offered within the space of seven years, France shall have the option, between this renewal and an indemnity of eight millions, which shall be paid to her in money, or in obligations given for the payment of indemnities which shall have been awarded by the Commissioners."

NOTE, (said to have been added by the Minister of Exterior Relations.) "It is understood, and shall be stipulated, in conformity with a note of the American Ministers, that, whenever the privilege respecting prizes shall be abolished, as to France and England, by the expiration of the treaty, neither the United States nor France shall again concede it to any Power whatever."

AUGUST 29.

The American Ministers intended to avail themselves of another conference to-day with the French Ministers; but the President of the French Commission and Mr. Rœderer had gone into the country on the 27th, and were not returned this morning; therefore, with the expectation of attracting the earliest attention of the Ministers to the business of the negotiation, the following note was addressed to them and sent to Mr. C. P. C. Fleurieu:

6th Con.—38

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, August 29, 1800.

7 o'clock, P. M.

CITIZEN MINISTERS: The Envoys of the United States have given the most serious attention to the note and the propositions enclosed, which the Ministers Plenipotentiary of the French Republic did them the honor to address to them under date of 7th Fructidor; and they regret that they have not been able to consider those propositions in the light they are presented by the French Ministers, as connecting the justice of indemnity with a beneficial modification of the treaties.

The third and fourth propositions leave it optional with France to reject indemnities, while they secure to her, unconditionally, the Treaty of Commerce, with a minute exception, which is so limited by time and other circumstances as to render it of little consideration with either party. With respect to the other treaty, the option to reject indemnities produces no effect whatever; its inconveniences are only to be avoided by a purchase of ten millions; so that, by those propositions, indemnities may be sacrificed, and the treaties remain recognised and confirmed—a measure which, in its operation, would be a complete departure from the principle proposed as the basis of negotiation by the French Ministers, and the abandonment of an object to which the American Ministers are bound to adhere, and upon which their sentiments have never varied.

As to the fifth proposition, it is rendered inadmissible only by an augmentation of the sums proposed by the undersigned Ministers, to extinguish the right of France under the mutual guaranty—a right, indeed, which, if France ever placed a value upon, she must have long since discerned that the abolition of it had become as essential to her interests as to those of the nation which she wishes not to embarrass. Confidently was it presumed by the American Ministers, that, in the equivalent for that right offered by them, there would be seen a liberal regard to the honor of the French Republic, and a still further proof of that desire which has so much sought to facilitate to her an adjustment of existing differences.

The Ministers Plenipotentiary of the United States, having exhausted their efforts to discover, by a spirit of justice and accommodation, the means of accomplishing the desires and realizing the views of both nations, can only now hope to avail themselves of the better directed efforts of the Ministers Plenipotentiary, with whom they have the honor to treat.

The American Ministers, willing to profit even of suggestions, remark that, in a late conference, which respected as well their notes of the 20th of the present month as that of the French Ministers Plenipotentiary of the 7th Fructidor, it was suggested by one of the latter (though not officially, or as a matter upon which the sense of his colleagues had been taken) that the option contained in the first mentioned note, to extinguish, by an equivalent of eight millions of francs, cer-

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tain claims of France under the former treaties, ought to be reciprocal; so that, if the offer should be made by either party, the other should accept it. That principle, if reduced to a form proper to give it effect, it is conceived, would be expressed as follows, viz:

"If the United States shall, at any time, within seven years from the exchange of the ratifications of the present treaty, offer to the French Republic an article of the tenor following, viz:

"It is agreed that the United States shall pay to the French Republic, within seven years from the day of exchanging the ratifications of the treaty of —, eight millions of francs, in money, or such securities as have been or may be issued to citizens of the United States for indemnities under the said treaty, together with interest hereafter, at the rate of — per centum per annum, until the principal shall be discharged; and that, as a consideration of such engagement, the United States shall forever be exonerated of the obligation on their part to furnish succors or aid under the mutual guaranty of the 11th article of the Treaty of Alliance of the 6th of February, 1778; and the rights of the French Republic, under the 17th and 22d articles of the Treaty of Amity and Commerce, of the same date, shall be forever limited to such as the most favored nation shall in these respects enjoy."

The French Republic will accept the same; or, if the French Republic shall, at any time within that term, offer such an article, the United States will accept the same; and, in either case, the article so offered shall become part of the present treaty.

To such a stipulation, in connexion with the first, fourth, fifth and sixth propositions offered by the American Envoys in their note of the 20th of the present month, they would agree, so great is their desire to terminate, without further loss of time, the present negotiation. They pray the Ministers Plenipotentiary of the French Republic to accept the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 5.

The following propositions were delivered by Mr. Røederer:

To the Ministers Plenipotentiary of the United States of America at Paris.

PARIS, 17th Fructidor, (4th Sept.,) year 8.

We shall have the right to carry our prizes into the American ports.

A commission shall regulate the indemnities due by each of the two nations to the citizens of the other.

The indemnities which shall be found due by France to the citizens of the United States shall be discharged by the United States; and, as an equivalent, France makes an abandonment of the exclusive privilege resulting from articles XVII and XXII of the Treaty of Commerce, and of the

rights of guaranty resulting from the eleventh article of the Treaty of Alliance.

BONAPARTE,
C. P. C. FLEURIEU,
RØEDERER.

Mr. Røederer delivered, at the same time, a paper unsigned, containing the following observations:

The Ministers of the United States appear to have mistaken the sense of the last note of the French Ministers. They imagine that the indemnities may be sacrificed by the propositions of the 7th Fructidor, and the treaties notwithstanding remain completely acknowledged and confirmed. It has always been the intention of the Ministers of France to reserve to her the right of choice between the restoration of her privileges and the payment of indemnities which may be brought against her; so that they have never supposed that she would enjoy privileges without the payment of indemnities, or could pay indemnities without the enjoyment of privileges.

The American Ministers have also misunderstood the private observations of one of the French Ministers. Their sole object was to show that, during the term of seven years, France should possess (agreeably even to the plan of the Ministers of the United States) the right to choose between the re-establishment of the privileges resulting from the seventeenth and twenty-second articles of the Treaty of Commerce, and a sum of at least eight millions, since France regards those privileges as an advantage peculiar to her, and for the abandonment of which she may stipulate as she deems proper.

To avoid the uncertainty which might arise from such a stipulation, hastily reduced to a diplomatic style, the Ministers of France have offered anew a naked draught of their final determination; and they observe that, if the American Ministers agree to the substance of the note, they may settle the form of it in concert with the French Ministers, and even modify the means of arriving at the same end.

SEPTEMBER 6.

The American Ministers being unanimous in the opinion that they could not accede to the propositions under date of the 17th Fructidor, agreed to offer the following articles as the basis of negotiation, and as predicated upon the original overtures of the French Ministers, referring only the determination of the question respecting the treaties and indemnities to the American Government, and postponing that determination no longer than to the time of ratification:

For the Ministers Plenipotentiary of the French Republic.

PARIS, Sept. 6, 1800.

The American Ministers consider the propositions received from the Ministers Plenipotentiary of France yesterday, under date of the 17th Fructidor, as altogether inadmissible. The nearest ap-

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proach to them, which the American Ministers can make, is—

1. The former treaties shall be renewed and confirmed.

2. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 20th of August.

3. There shall be mutual indemnities, and a mutual restoration of captured property not yet definitively condemned, according to their fifth and sixth propositions of that date.

4. If, at the exchange of ratifications, the United States shall propose a mutual relinquishment of indemnities, the French Republic will agree to the same; and, in such case, the former treaties shall not be deemed obligatory except that under the 17th and 22d articles of that of Commerce, the parties shall continue forever to have for their public ships of war, privateers, and prizes, such privileges in the ports of each other as the most favored nation shall enjoy.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 8.

The above note was sent on the same day to the French Ministers; no answer, however, being yet received, the following note, requesting an interview, was sent to-day:

To the Ministers Plenipotentiary of the French Republic.

PARIS, *Sept. 8, 1800.*

The Envoys of the United States request the honor of an interview with the Ministers Plenipotentiary of the French Republic to-morrow, at 12 o'clock, at such place as may be convenient to them, in order to learn whether the note of the undersigned of the 6th of the present month can serve as the basis of a treaty, or, if not, whether any further overtures are to be expected on the part of France. They pray the Ministers Plenipotentiary of the French Republic to accept the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 9.

Mr. Røederer informed the American Ministers that the conference requested could not take place, owing to the absence of Joseph Bonaparte, the President of the Commission.

SEPTEMBER 11.

The following note was received:

PARIS, *24th Fructidor,*
(*September 11,*) *year 8.*

The Ministers Plenipotentiary of the French Republic will do themselves the honor to meet the Envoys Extraordinary and Ministers Plenipotentiary of the United States, at their residence, *Hotel des Oiseaux*, to-morrow, at two o'clock, P. M.

I pray them to accept the assurance of my high consideration.

J. BONAPARTE.

SEPTEMBER 12.

The American Ministers met this morning to settle the mode of conducting the expected conference, and resolved to press their last propositions to the utmost; and, if the French Ministers should finally disagree to them, without offering any admissible substitute, then, in that case, to offer the written proposition delivered by Mr. Røederer on the 26th of August, in two forms, one connecting the 11th article of the Treaty of Alliance with the 22d and 17th of that of Amity and Commerce, in the option of an equivalent; the other pursuing strictly the original proposition, but connecting it with a modification of the guaranty. Some remarks were also prepared with respect to the operation and effect of a guaranty in the form of the 11th article; it being the object of the American Ministers to discuss the business fully, and, if possible, to press it to a termination.

The French Ministers attended at the hour appointed, and the propositions of the 6th of September were taken up and considered, article by article. The 1st and 3d were agreed to, with some modification of the 3d, as to rules of evidence, which did not vary its principle. The 2d and 4th were considered together, as in some measure connected; and, after considerable discussion, the French Ministers said they were determined not to accede to these, unless an option, perfectly similar and reciprocal, was assured to the French Republic, the operation of which enabled her to get rid of the indemnities, by an offer of abandoning the exclusive privileges. They now openly avowed that their real object was to avoid, by every means, any engagement to pay indemnities, giving as one reason the utter inability of France to pay, in the situation in which she would be left by the present war. The subject of the modification of the guaranty was now particularly pressed in the manner agreed. The conversation on this subject closed by a declaration of the President of the French Commission, that such a modification could not be acceded to without new instructions; that they had no powers to assent to such a stipulation; but that, if the Government should think proper to instruct them to make a treaty on the basis of indemnities and a modified renewal of the old treaties, he would resign sooner than sign such a treaty; adding that, if the question could be determined by an indifferent nation, he was satisfied such a tribunal would say that the present state of things was *war* on the side of America, and that no indemnities could be claimed. The other two Commissioners made similar declarations.

The American Ministers retired a few minutes and agreed that it was now clearly in vain to make any further attempts on this ground, and, of course, useless to bring forward the proposition of Mr. Røederer in any form.

The conference was, therefore, closed by the American Ministers requesting a written answer to the note of the 6th of September.

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Reflections of the American Ministers on their overture respecting the guaranty delivered to the French Ministers, at their conference, on the 12th day of September.

Adopting the universality of modern practice as a rule of exposition, a guaranty which omits to stipulate specific succors does not contemplate any to be furnished, and is, only, on the part of the guarantor, a renunciation of interfering claims, an engagement not to countenance or admit such claims in favor of a third Power, and, generally, an assurance of good offices for the security of the object guarantied, which shall not be onerous to himself.

If, however, the guaranty between France and the United States did in fact contemplate succors, they must have been principally for the latter, who might need them, rather than for the former, who was evidently competent to protect herself; and the mutuality of the obligation to succor could have been intended for little more than to save appearances.

Again, if the ability to furnish succors was to be the measure of them, (and if they were contemplated at all, there could have been no other measure,) much less must have been expected from the scattered agriculturists of a new country than from a nation habitually prepared for war, and one of the most powerful in Europe.

The American Ministers, however, have proposed, not only to render the guaranty specific, but to render the succors equal, and that without taking into account that France will frequently receive, and but seldom have occasion to furnish them. Their offer, it is presumed, in the view of the subject here given, will be sufficiently appreciated. The French Ministers will see in this proposition only those motives of liberal policy, and that sincere spirit of accommodation which have continually actuated the United States towards France; there being no circumstance in the present juncture that would dictate a sacrifice to that object of their convenience or their interests, and nothing in the perspective of the future from which they might augur such a necessity. And the American Ministers presume that France will not raise new obstacles to the progress of the negotiation, by placing a high and unexpected value upon what she really placed none heretofore: it would accord neither with her accustomed magnanimity, nor that conciliatory policy towards the United States which she professes to pursue.

SEPTEMBER 12.

The following note was received from the French Ministers:

PARIS, 26 *Fructidor*,
(13th September,) year 8.

The Ministers of France are unable to depart from the modifications which they had yesterday the honor to propose verbally to the American Ministers, on the subject of their note of the 6th of September, (19th *Fructidor*.) They adhere to these principles:

1. That a stipulation of indemnities carries with it a full and entire recognition of the treaties; and

2. That the abandonment of the advantages and privileges stipulated by the treaties, in consideration of the reciprocal abandonment of indemnities, will be the most useful and honorable arrangement for both nations.

Acting on these principles, the French Ministers persist in the verbal declarations made at the conference yesterday. They will, therefore, proceed to give some explanations on each of the articles of the note of the 6th of September.

I. The ancient treaties shall be recognised and confirmed.

II. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 20th of August.

III. There shall be mutual indemnities, and a mutual restoration of captured property, not yet definitively condemned, according to the fifth and sixth propositions of that date.

IV. If, at the exchange of ratifications, the United States shall propose a reciprocal abandonment of indemnities, the French Republic will agree to this proposition; and, in this case, the ancient treaties shall not be deemed obligatory; except that, under the 17th and 22d articles of the Treaty of Commerce, the parties shall continue to have, for their vessels of war, privateers, and prizes, in their respective ports, the privileges enjoyed by the most favored nation.

They accede to the proposition contained in the first article.

The second cannot be admitted unless the fourth article shall give to the French Republic the assurance that, if she should propose to the United States the reciprocal abandonment of indemnities, this proposition will be accepted, in consideration of the abandonment of the right of guaranty, resulting from the Treaty of Alliance, and the privileges resulting from the 17th and 22d articles of the Treaty of Commerce. If article four does not carry with it this stipulation, neither article four nor article two can be admitted.

The third has appeared to require some explanations. The Ministers of France understand:

1. Indemnities shall be provided for captures made from individuals, and which shall have been condemned at the time of signing the treaty.

2. That the vessels and national ships, respectively taken, shall be restored or paid for.

3. That the captures made from individuals, and not adjudicated at the time of signing the treaty, shall be adjudicated according to the treaty of 1778, correctly interpreted, as may be agreed on.

Article IV cannot be admitted, as has already been observed, if it does not offer the same rights to France as to the United States; and if it does not preserve the ancient treaties, with the exception of the privileges, and the stipulation of guaranty.

In order to attain this object, and render the second article admissible, the 4th article should be expressed in the following, or some other equiv-

Relations with France.

alent terms: "If, at the exchange of ratifications, the United States shall offer to the French Republic, or if the French Republic shall offer to the United States, the reciprocal abandonment of indemnities, this proposition will be accepted; and, in this case, the engagement of guaranty resulting from the eleventh article of the Treaty of Alliance, and the privileges resulting from articles eleven and twenty-two of the Treaty of Commerce shall be restricted to the advantages which can be enjoyed by the most favored nation.

J. BONAPARTE,
C. P. C. FLEURIEU,
RÖDERER.

SEPTEMBER 13.

The American Ministers being now convinced that the door was perfectly closed against all hope of obtaining indemnities, with any modification of the treaties, it only remained to be determined whether, under all the circumstances, it would not be expedient to attempt a temporary arrangement which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved, save the immense property of our citizens now depending before the Council of Prizes, and secure, as far as possible, our commerce against the abuses of captures during the present war.

After mature deliberation, the American Ministers resolved to make the overture contained in the following note, which was sent to the Commissioners of the French Republic the same day:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, September 13, 1800.

The undersigned had the honor of receiving the note of the French Ministers of the 26th Fructidor yesterday.

The discussion of former treaties and indemnities, being for the present closed, it must, of course, be postponed till it can be resumed with fewer embarrassments.

It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it:

1. The Ministers Plenipotentiary of the respective parties, not being able at present to agree respecting the former treaties and indemnities, the parties will in due and convenient time further treat on those subjects; and, until they shall have agreed respecting the same, the said treaties shall have no operation. In the meantime,

2. The parties shall abstain from all unfriendly acts; their commercial intercourse shall be free, and debts shall be recoverable in the same manner as if no misunderstanding had intervened.

3. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, shall be mutually restored. Proofs of ownership to be specified in the Convention.

4. Some provisional regulations shall be made to prevent abuses and disputes that may arise out of future cases of capture.

The Ministers of the United States request the honor of an early interview at such time and place as may be convenient to the Ministers Plenipotentiary of the French Republic, and offer them the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 19.

A conference was held to-day with the French Ministers, at the opening of which they delivered the following articles as a kind of counterproject:

PARIS, 2 *Complémentaire*,
(19th September,) year 8.

The Ministers of France and those of the United States, finding, at the close of numerous discussions, that they cannot agree, at this time, either respecting the interpretation of the 11th article of the Treaty of Alliance of 1778, and the 17th and 22d articles of the Treaty of Commerce of the same year, or on the subject of the reciprocal indemnities due in consequence of the captures made from the citizens of the two nations, have agreed as follows:

ARTICLE 1. The two parties defer to another time, the discussion of the indemnities, and of the abovementioned articles of the treaties of 1778: in every other particular, these treaties are, by these presents, recognised and confirmed, as well as the Consular Convention of 1778.

ART. 2. The vessels and the privateers, with their prizes, of the two nations, shall be treated, in their respective ports, as those of the most favored nation.

ART. 3. The public ships shall either be restored or paid for.

ART. 4. The property of individuals not yet condemned, shall be adjudicated according to the Treaty of Friendship and Commerce of 1778; in consequence of which, no *rôle d'équipage* shall be required, nor any other proof which is not required by that treaty.

C. P. C. FLEURIEU,
RÖDERER.

These articles were discussed, with the corresponding articles in the propositions of the American Ministers of the 13th of September; and it was agreed to meet from day to day until the business was finished.

SEPTEMBER 24.

The following note was received from the Secretary of the French Legation:

4th *Complémentaire*, (Sept. 21,) year 8.

M. Pichon's compliments to Messrs. Davie and Ellsworth, and sends to them, herewith enclosed, copies of the articles settled. Mr. P. has it in charge from the French Ministers to desire the American Envoys, if they see no impropriety, to communicate what they intend to propose further

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on the fourth principle of the note, in order that the French Ministers may look to it until the next conference, and that the debates after dinner may be the shorter.

If the American Ministers have no objection to this, and they are pleased to forward the articles to Mr. Pichon, he will translate and communicate them to the French Ministers, so that time may be spared, and business, as much as possible, forwarded.

SEPTEMBER 22.

The American Ministers present their compliments to Mr. Pichon, and readily comply with the proposal in his obliging note of yesterday.

They will bring forward, as details under their fourth proposition, the 21st, 22d, 23d, 24th, 25th, 26th, and 28th articles of their former project, with some variation of the 22d and 23d to adapt them to principles already agreed on. These articles, it is presumed, cannot occupy much time, as they have been so long in the hands of the French Ministers, as they are principally drawn from the treaty of '78, and are only varied or enlarged to prevent a repetition of abuses and misunderstandings. It will also be proposed to add to the 24th, the following clause: "Nevertheless, it shall not be required to examine the papers of vessels conveyed by vessels of war, but credence shall be given to the word of the officer who shall conduct the convoy;" principally with a view to check West India privateers, till your Government shall be able to reduce them to obedience.

The American Ministers present their compliments to Mr. Pichon, and now send, agreeably to his request, the 23d article of their former project, varied agreeably to the intimation given in their note to him of yesterday. He will have the goodness to present the article to the French Ministers for their examination. It accommodates their views to subject enemy goods in free bottoms as soon after the ratifications as papers can be furnished, requisite to prevent great embarrassments. It concedes the principle they desire, while it so regulates the exercise of that principle as to render it less distressing to neutral commerce, and, of course, less injurious to France.

SEPTEMBER 23.

ART. 23. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that, when one party shall be engaged in war, and the other party be neuter, the ships of the neutral party, that is, such of them as have already left, or which, prior to the 1st day of May next, may leave, the ports of the nation to which they belong, shall be furnished with passports similar to those described in the article, that it may appear thereby that the ships really belong to the citizens of the neutral party. They shall be valid for any number of voyages, but they shall be recalled every year, that is, if the ship should return home within the space of a year. Such ships, being laden, are to be provided not only with passports as abovementioned, but also with certi-

icates similar to those described in the same article, that so it may be known whether they carry any contraband goods. No other paper shall be required, any ordinance or usage to the contrary notwithstanding. And if it shall not appear, from said certificates, that there are contraband goods on board, the ships shall be permitted to proceed on their voyage: if it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, he shall, notwithstanding, be at liberty to proceed on his voyage, unless the quantity of the contraband goods shall be greater than can be conveniently received on board the ship of war, or privateer; in which case, the ship may be carried into port for the delivery of the same.

With respect to ships which shall leave the ports of the nation to which they belong after the last day of April next, they shall be furnished with passports as abovementioned, and, if laden, shall be furnished with like certificates as beforementioned, excepting that the certificates shall also express to whom the cargo belongs, and of what nation, State, or Prince, the owner is a citizen or subject, that so it may be known if there are contraband or enemy goods on board. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the last mentioned certificates that there are either contraband or enemy goods on board, the ships shall be permitted to proceed on their voyage: if it shall appear from the certificates that there are contraband or enemy goods on board any such ship, and the commander of the same shall offer to deliver them up, he shall, notwithstanding, be at liberty to proceed on his voyage, unless the quantity of contraband or enemy goods, or of both, be greater than can be conveniently received on board of the ship of war or privateer; in which case, he may be carried into port for the delivery of the same.

If any ship in the predicament first above mentioned shall not be furnished with such passport and certificates as is above required for the same, such case shall be examined by a proper judge or tribunal; and, if it shall be found, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released, with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage. And, if any ship in the second predicament above mentioned shall not be furnished with such passport and certificates as is above required for the same, such case may be examined by a proper judge or tribunal; and, if it shall be found, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, the same shall not be confiscated, but shall be released, with her cargo, (contraband goods and such as shall be found to be enemy goods excepted,) and be permitted to proceed on her voyage.

The business was now conducted by conference, from day to day until the 30th of September,

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when the Convention was finished, under the title of a "Provisional Treaty." The French Ministers had insisted that the treaty should be signed, under a recognition that the original was in the French language, after the manner of the treaty of '78. As the American Ministers refused to acknowledge this as a precedent, or recognise any prerogative with respect to language, the French Ministers delivered the following note on that subject:

PARIS, 8th Vendemiaire,
(29th September,) year 8.

The Ministers of France insist, in relation to the treaty, upon one of three things:

Either that the treaty shall be signed in the French language only, without any reservation, the mode pursued by the Consular Convention of 1788, between France and the United States, and by the Treaty of 1786, between France and England;

Or, that it shall be signed in the French language only; and that a separate article (similar to the one at the close of the Treaty of 1783, between France and England,) shall stipulate, "That the French language, used in this treaty, shall not constitute a precedent, nor operate to the prejudice of either of the contracting parties;"

Or, finally, that it shall be signed in the French and English languages, accompanied by the following declaration, conforming to the one at the end of the Treaty of Alliance and the Treaty of Commerce of 1778: "In faith whereof, the respective Plenipotentiaries have signed the above articles, both in the French and English languages; declaring, nevertheless, that the present treaty was originally written and concluded in the French language."

The Ministers of France cannot depart from either the one or the other of these forms, or from one by which it will appear, with equal clearness, that the negotiation has been conducted in French, and that the original treaty is in that language. Their reasons are conclusive.

The first is, that this has been the usage between France and America, between France and England, between France and many other States, and even between America and other States besides France.

The second is, that this usage involves no principle opposed to the equality of the two nations; and that the use of one language, whatever that may be, in a treaty common to several parties, is a mutual advantage, and ought not to be considered as a privilege conferred on the nation to whom the adopted language is most familiar.

These two propositions may require a few words in explanation. On the first, we will only observe that, in addition to the cited examples of the two treaties of 1778, between France and America, and the Consular Convention of 1788, the United States have used the French language, without hesitation or objection, in treaties with which France had no concern. The Treaty of Friendship and Commerce between the United States and Sweden, concluded at Paris, the 3d of April, 1783,

may be referred to as an instance. May it not be asked, why should the French language be now rejected, after having been adopted as the original in treaties formed by the United States with both France and Sweden?

The second proposition is founded upon very obvious considerations.

1st. When two nations or individuals are desirous of terminating differences existing between them, it is natural that they should make their several explanations in a common language, as well for the purpose of avoiding the tediousness and incorrectness of interpretations, as of preventing an increased misunderstanding which might arise from verbal misconstruction.

When public negotiations are carried on between three, four, or five different nations, speaking different languages, the necessity of a common language becomes the more apparent.

Formerly, when Europe had no common language except the Latin, treaties were formed in that language. But since the French, a derivation from the Latin, has become a classical language, it has generally been considered more convenient than the Latin for general use, and has therefore been substituted for the Latin. Hence, the French language has acquired a privilege, if you please, over other languages, but not the French nation. It has acquired this privilege at the expense of the Latin, not of any living language, and still less in prejudice of the rights of any Power whatever. Nations, in acknowledging it as the legitimate successor of the Latin, and in adopting it as their own, have only had recourse to a practice the most convenient to themselves in the exposition, discussion, and expression of their rights; and have thus advanced those rights by yielding up their prejudices.

2d. When two or more parties have been carrying on a negotiation in one language, it is possible to agree that the treaty shall be translated in the language of each of the parties, and signed by all. But, in this case, good sense and common interest require two things: First, that one of the copies, thus signed by all the contracting parties, should be acknowledged as the original: Secondly, that the copy written in the language in which the negotiation was conducted should be regarded as that original.

We say, in the first place, that there must be one original copy. Because, if time and usage should disclose differences of expression, at first unperceived, in the phraseology employed in two copies, written in different languages, (a circumstance which seems inevitable, and has, indeed, occurred in relation to the Treaty of Friendship and Commerce of 1778,) it will be necessary to have recourse to a common version.

We say, in the second place, that the copy, written in the language in which the negotiation was conducted, is the one to which the title of original should be given. The reasons are evident: First in point of fact, it is the original, as it respects the rest, having been first composed, article by article, in the language of the negotiation, as the negotiation itself progressed: Secondly, in

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the event of a discrepancy in expression between two copies of the same treaty, written in different languages, it is the dictate of reason and justice that the contracting parties should have recourse to that expression which was agreed upon and avowed by all, in the language of the negotiation. What is more reasonable than that each should refer to the first expression of his own will, and the faithful signs of his own intentions?

In the adoption, therefore, of the French, as the original language of the treaty, every idea of national prerogative should be discarded, as foreign to the subject. No innovation is urged upon the American Ministers, and no consideration can authorize the Ministers of France to depart from established usage.

C. P. C. FLEURIEU,
RÆDERER.

The American Ministers finally, but with great reluctance, agreed to the signing in the form of the Treaty of 1778, and it was executed accordingly.

OCTOBER 2.

The French Ministers called this morning with the treaties, proposing some alterations, with regard to the style of the French Republic, and that the word "provisional" should be stricken out in the name or description of the treaty. The American Ministers availed themselves of this opportunity to resume their opposition to the admission in favor of the French language, and consented to the proposed alterations, respecting the style of the French Government, and offered to change the term "provisional treaty" for that of "convention," on the condition that that part of the treaty which respected the French language was stricken out, agreeing, at the same time, that a clause might be inserted, saving the right of both nations; to which the French Ministers acceded without any further discussion.

OCTOBER 3.

Six copies being now prepared, as agreed to be amended, they were signed and sealed under the former date of the 30th of September, (9 Vendémiaire;) two copies were retained by the French Commissioners, two were left with Mr. Murray, and the other two were taken in charge by Mr. Ellsworth and Mr. Davie.

OLIVER ELLSWORTH,
W. R. DAVIE.
W. V. MURRAY.

PARIS, October 4, 1800.

SIR: The undersigned have the honor to present to you a journal of their proceedings, and a convention in which these proceedings have terminated.

The claim of indemnities brought forward by them was, early in the negotiation, connected by the French Ministers with that of a restoration of treaties, for the infractions of which the indemnities were principally claimed. To obviate this embarrassment, which it had not been difficult to

foresee, the American Ministers urged, in the spirit of their instructions, that those treaties having been violated by one party, and renounced by the other, a priority had attached in favor of the treaty with Great Britain, who had thereby acquired an exclusive right for the introduction of prizes; wherefore, that right could not be restored to France. The argument was pressed, both by notes and in conferences, as long as there remained a hope of its utility, and until there appeared no alternative but to abandon indemnities, or, as a means of saving them, to renew, at least partially, the Treaty of Commerce. Whether, in fact, it could or could not be renewed consistently with good faith, then became a question for thorough investigation; in the course of which, the following considerations occurred?

1st. It is not a breach of faith to form a treaty with one nation inconsistent with an existing treaty with another; it being well understood that the prior treaty prevails, and has the same operation as if the subsequent one were not formed; nor is it necessary or usual for a subsequent to make an express saving of the rights of a prior treaty, the law of nations having made that saving as complete and effectual as it can be rendered. This rule of construction holds universally, except where the subsequent treaty can have no operation but by violating the first; in which case, it will be taken for an agreement to come to a rupture with the Power with whom the first was formed.

2d. Indeed, by a clause in the twenty-fifth article of the British Treaty, it is provided, "that while the parties continue in amity, neither of them will in future make any treaty that shall be inconsistent with that or the preceding article," which articles contain, among other things, the exclusive right of introducing prizes into the ports of each other. If, however, the British be considered in the light of a prior treaty, as it must be to raise a doubt, all its rights, as well those of a restrictive nature as others, would be saved, of course, and none of them would at any time or in any degree, be affected by the subsequent stipulation. The subsequent stipulation, in the case supposed, although it should give in general terms the right of introducing prizes, would be understood with a limitation, that it was never to extend to a case in which Great Britain should be the enemy.

3d. The instructions to the American Ministers authorized a renewal of the seventeenth article of the Treaty of Commerce, if it should be necessary, though with a special saving for two articles of the British Treaty. That special saving, however, cannot be material, as the settled rule of construction would, without it, make a saving still more comprehensive.

4th. The renewal of the 17th article of the Commercial Treaty is not conceived to be within the expression or design of the restraining clause of the British Treaty, "not in future to make any treaty that shall be inconsistent with," &c. To recognise a pre-existing treaty which contains a stipulation inconsistent with, &c., is not to make a new or future

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treaty containing such stipulation. To recognise the former treaties would be only to preserve or restore the state of things existing when the British Treaty was formed, and not to introduce a new state of things, which was, doubtless, the event intended to be guarded against. It would be only to do what is usually done in the termination of misunderstandings. We are not to presume, and much less is it expressed, that the United States and Great Britain meant to deprive themselves of the usual means of terminating national contests in which they might be involved. And the facility of terminating misunderstandings, by restoring things to their former condition, is not so great, but so conformable to justice, and so favorable to general tranquillity, that the law of nations will not favor a construction which goes to deprive a contracting party of the benefit of it.

5th. The language in which pre-existing treaties are usually recognised at the close of a war does not import that the treaties have in fact ceased to exist, but rather that the causes which suspended their operation have ceased. And in various instances such treaties are counted upon as becoming again operative, without any express provision to render them so.

6th. Nor is it conceived, that the treaties between the United States and France have undergone a more nullifying operation than the condition of war necessarily imposes. Doubtless, the Congressional act, authorizing the reduction of French cruisers by force, was an authorization of war, limited, indeed, in its extent, but not in its nature. Clearly, also, their subsequent act, declaring that the treaties had ceased to be obligatory, however proper it might be for the removal of doubts, was but declaratory of the actual state of things; and certainly it was only from an exercise of the constitutional prerogative of declaring war that either of them derived validity. So that the treaties in question, having had only the usual inoperation, might, without a breach of faith, have the usual negotiation.

7th. As far as the opinion of Great Britain goes, there would be no difficulty in recognising a treaty, which gives to France an exclusive right to introduce prizes into the ports of the United States; because she, by a project of a treaty of peace, drawn up at her own Court in 1792, and offered by Lord Malmesbury to the French Plenipotentiaries, proposed to give to France such exclusive right in the British ports; that is, the project renewed the treaties of Paris of 1763, and of 1783, both of which renewed the Commercial Treaty of Utrecht of 1713, which contained such a stipulation.

The foregoing considerations induced the undersigned to be unanimously of the opinion that any part of the former treaties might be renewed consistently with good faith.

They then offered a renewal, with limitations of the seventeenth article of the Commercial Treaty, which, without compromising the interests of the United States, would have given to France what her Ministers had particularly insisted on, as essential to her honor, and what they

had given reason to expect would be deemed satisfactory. The overture, however, finally produced no other effect than to enlarge the demand of the French Ministers, from a partial to a total renewal of the treaties; which brought the negotiation a second time to a stand.

The American Ministers, however, after a deliberation of some days, the progress of events in Europe continuing in the meantime to grow more unfavorable to their success, made an ulterior advance, going the whole length of what had been last insisted on. They offered an unlimited recognition of the former treaties, though accompanied with a provision to extinguish such privileges claimed under them as were detrimental to the United States, by a pecuniary equivalent, to be made out of the indemnities which should be awarded to American citizens. A compensation which, though it might have cancelled but a small portion of the indemnities, was, nevertheless, a liberal one for privileges, which the French Ministers often admitted to be of little use to France, under the construction which the American Government had given to the treaties.

This offer, though it covered the avowed objects of the French Government, secured an engagement to pay indemnities, as well as the power to extinguish the obnoxious parts of the treaties. To avoid any engagement of this kind, the French Ministers now made an entire departure from the principles upon which the negotiation had proceeded for some time, and resumed the simple, unqualified ground of their overture of the 23d Thermidor, declaring that it was indispensable to the granting of indemnities, not only that the treaties should have an unqualified recognition, but that their future operation should not be varied in any particular, for any consideration or compensation whatever. In short, they thought proper to add, what was quite unnecessary, that their real object was to avoid indemnities, and that it was not in the power of France to pay them.

No time was requisite for the American Ministers to intimate that it had become useless to pursue the negotiation any further.

It accorded as little with their views as with their instructions, to subject their country perpetually to the mischievous effects of those treaties, in order to obtain a promise of indemnity at a remote period—a promise which might as easily prove delusive as it would reluctantly be made; especially, as under the guaranty of the Treaty of Alliance, the United States might be immediately called upon for succors, which, if not furnished, would of itself be a sufficient pretext to render abortive the hope of indemnity.

It only remained for the undersigned to quit France, leaving the United States involved in a contest, and, according to appearances, soon alone in a contest, which it might be as difficult for them to relinquish with honor as to pursue with a prospect of advantage; or else to propose a temporary arrangement, reserving for a definite adjustment points which could not then be satisfactorily settled, and providing, in the meantime, against a state of things of which neither party

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could profit. They elected the latter, and the result has been the signature of a convention.

Of property not yet definitively condemned, which the fourth article respects, there are more than forty ships and cargoes, and a number of them of great value, at present pending for decision before the council of prizes; and many others are doubtless in a condition to be brought there, if the claimants shall think fit.

Guards against future abuses are, perhaps, as well provided as they can be by stipulations.

The article respecting convoys may be of use in the West Indies, till it shall be more in the power of the French Government than it is at present to reduce the corsairs in that quarter to obedience.

As to the article which places French privateers and prizes on the footing of those of the most favored nations, it was inserted as drawn by the French Ministers, without any discussion of the extent of its operation; the American Ministers having, in former stages of the negotiation, repeatedly and uniformly declared, agreeably to the rule of construction settled by the law of nations, that no stipulation of that kind could have effect as against the British Treaty, unless the stipulation were derived from former treaties, which it is here expressly agreed shall have no operation whatever. This article, however, is less consequential, as it will soon be in the power of the United States, and doubtless, also, within their wisdom, to refuse to the privateers and prizes of any nation an asylum beyond what the rights of humanity require.

If, with the simple plea of right, unaccompanied with the menaces of power, and unaided by events either in Europe or America, less is at present obtained than justice requires, or than the policy of France should have granted, the undersigned trust that the sincerity and patience of their efforts to obtain all that their country had a right to demand will not be drawn in question.

We have the honor to be, sir, with high respect, your most obedient,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

Hon. JOHN MARSHALL,
Secretary of State.

Mr. King to the Secretary of State.

LONDON, October 31, 1800.

SIR: The Convention with France, having been published at Paris, immediately found its way into the English newspapers, in which it appeared the day after Mr. Ellsworth's arrival in London; its authenticity being confirmed by him, it became my duty to endeavor, with as much diligence and as extensively as was in my power, to communicate such sentiments and opinions respecting it as would be likely to procure to it a favorable consideration.

After conversing with the Lord Chancellor and some others of the Ministers, I found an occasion to mention the subject to the King: and, though

this was not altogether regular, I had no reason to be dissatisfied with having done so.

After waiting several days, during which I might see and converse with the persons about the Court, I yesterday asked a conference with Lord Grenville, which took place this morning. The conversation began by my observing that I wished to speak with him respecting our reconciliation with France, in order that I might communicate to my Government, which would be desirous to understand the light in which it was considered by the British Government. This beginning led to a free and apparently candid conversation respecting it, which was followed by Lord Grenville saying to me that he saw nothing in the convention inconsistent with the treaty between them and us, or which afforded them any ground of complaint; nor did he perceive in it anything that might not have been expected, unless it was the article respecting convoys, which we were certainly free to make, but which, nevertheless, just at the present juncture, had somewhat of a less friendly appearance than might have been wished. I expressed my satisfaction that I had not been mistaken in believing that the British Government would find nothing to object to in the convention; and remarked, that the article of free bottoms having made a part of the old treaty, it was natural enough that it should be inserted in the new one, and that the provision respecting convoys seemed to be no more than a convenient consequence of that article, by which the visit of the belligerent is not only restrained in its object, but placed under special regulations as to the manner in which it shall be made; and, moreover, that convoys would be indispensable to protect our trade against French corsairs in the West Indies, which could not at present be controlled by France. Lord Grenville had not manifested any marks of disappointment or discontent concerning the convention; showed no inclination to controvert what I had just said; contenting himself by repeating (but without seeming to place much importance upon the observation) what he had before said, with regard to their misunderstanding with the Northern Powers. The subject of convoys being before us, I thought the occasion not an unfavorable one concisely to suggest certain reflections which had passed in my mind concerning it, and which are the foundation of the observations contained in my No. 80. After some general remarks respecting the rights of neutrals and belligerents, I observed that it seemed to me practicable to devise regulations, by which the trade of neutrals might be secured by convoys, without affecting injuriously the right of search. It might, for example, be stipulated that no ship should be entitled to sail under convoy which should not possess a certificate, in an agreed form, attesting her neutrality, and the neutrality and innocence of her cargo; the Consuls or other agents of the belligerent, residing in the neutral countries, might assist in taking the proofs upon which certificate should be granted; and it might, moreover, be settled that the visit of the belligerent should be confined to the convoying

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ship, the commander of which, on exhibiting the certificates of the ships under his convoy, should, with them, be entitled to proceed unmolested. Other regulations might be devised, for places where the agents of the belligerents could not, on account of the war, assist in receiving the proofs of neutrality.

Lord Grenville, without hesitation, admitted the fairness of the project, adding that it would be indifferent to them, as belligerents, whether the examination was made by their agents before the sailing of the neutral ship, or, upon the ocean, by their naval officers.

With perfect respect and esteem, I have the honor to be, sir, your obedient faithful servant,
RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

"LONDON, November 22, 1800.

"SIR: Upon the probability of the conclusion of peace, well informed persons continue to differ extremely in their opinions. Austria will make peace if she can make a good bargain, which, as in former wars, she may probably be able to do. England (I mean the Government) desires to make peace with Bonaparte; and, from the language made use of by the English Ministers, one would almost be led to think that she is now willing to countenance and support the First Consul upon the very principles which have induced her to oppose those who have hitherto been at the head of the affairs of France.

"Whatever may have been the temper or inclination of this Government, in a different posture of its affairs, and before the convention with France was published, its sentiments in respect to that instrument, and the distinguished manner in which Mr. Ellsworth has been received by the Court, have a tendency to show that at present it has no animosity nor unusual prejudice against us; on the contrary, those who disseminate its opinions encourage the people to bear their distresses, arising from the dearness of bread, by holding forth to them the abundant harvest of America, and the prospect of a great supply from thence."

The Senate, having considered the foregoing convention with France, adopted the following resolution:

IN SENATE, February 3, 1801.

Resolved, By the Senate of the United States, (two-thirds of the Senators present concurring therein,) that they do consent to and advise the ratification of the convention between the French Republic and the United States of America, made at Paris, the 8th day of Vendemiaire, of the 9th year of the French Republic, (the 30th day of September, Anno Domini 1800:) *Provided*, The second article be expunged and the following article added or inserted:

It is agreed that the present convention shall be

in force for the term of eight years from the exchange of ratifications.

The following Message was thereupon transmitted to the Senate:

UNITED STATES, March 2, 1801.

Gentlemen of the Senate:

I have considered the advice and conduct of the Senate to the ratification of the convention with France under certain conditions. Although it would have been more conformable to my own judgment and inclination to have agreed to that instrument unconditionally, yet, in this point, I found I had the misfortune to differ in opinion from so high a Constitutional authority as the Senate. I judged it more consistent with the honor and interest of the United States to ratify it under the conditions prescribed than not at all. I accordingly nominated Mr. Bayard, Minister Plenipotentiary to the French Republic, that he might proceed without delay to Paris, to negotiate the exchange of ratifications. But, as that gentleman has declined his appointment, for reasons equally applicable to every person suitable for the service, I shall take no further measures relative to this business, and leave the convention, with all the documents, in the office of State, that my successor may proceed with them according to his wisdom.

JOHN ADAMS.

The ratification of the convention which was made by the French Government, is contained in the following translation:

Bonaparte, First Consul, in the name of the French people: The Consul of the French Republic having seen and examined the convention concluded, agreed to, and signed at Paris, the 8th Vendemiaire, ninth year of the French Republic, (30th September, 1800,) by the Citizens Joseph Bonaparte, Fleurieu, and Rœderer, Counsellors of State, in virtue of the full powers which have been given to them to this effect, with Messieurs Ellsworth, Davie, and Murray, Ministers Plenipotentiary of the United States, equally furnished with full powers, the tenor of which convention follows:

Approves the above convention in all and each of the articles which are therein contained; declares that it is accepted, ratified, and confirmed; and promises that it shall be inviolably observed.

The Government of the United States having added to its ratification, that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two States renounce the respective pretensions which are the objects of the said article.

In faith whereof, these presents are given. Signed, countersigned, and sealed with the great seal

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of the Republic, at Paris, the twelfth Thermidor, ninth year of the Republic, (31st July, 1801.)

BONAPARTE.

The Minister of Exterior Relations:

CH. MAU. TALLEYRAND.

By the First Consul: The Secretary of State,
HUGUES B. MARET.

The following Message of the President and resolution of the Senate terminate the proceedings upon the convention:

DECEMBER 11, 1801.

Gentlemen of the Senate:

Early in the last month I received the ratification, by the First Consul of France, of the convention between the United States and that nation. His ratification not being pure and simple, in the ordinary form, I have thought it my duty, in order to avoid all misconception, to ask a second advice and consent of the Senate before I give it the last sanction, by proclaiming it to be a law of the land.

TH: JEFFERSON.

IN SENATE OF THE UNITED STATES,
December 19, 1801.

Resolved, That the Senate (two-thirds of the members present concurring therein) consider the convention between the United States and the French Republic as fully ratified.

PRUSSIA.

[Communicated to the Senate, December 6, 1799.]

Gentlemen of the Senate:

I lay before you, for your consideration, a treaty of Amity and Commerce between the United States and the King of Prussia, signed by their Ministers on the 11th of July last.

JOHN ADAMS.

UNITED STATES, Dec. 6, 1799.

A Treaty of Amity and Commerce between His Majesty the King of Prussia and the United States of America.

His Majesty the King of Prussia and the United States of America, desiring to maintain, upon a stable and permanent footing, the connexions of good understanding, which have hitherto so happily subsisted between their respective States, and for this purpose to renew the Treaty of Amity and Commerce, concluded between the two Powers, at the Hague, the 10th of September, 1785, for the term of ten years, His Prussian Majesty has nominated and constituted as his Plenipotentiaries, the Count Charles William de Finckenstein, his Minister of State, of War, and of the Cabinet, Knight of the orders of the Black Eagle and of the Red Eagle, and Commander of St. John of Jerusalem; the Baron Philip Charles d'Alvensleben, his Minister of State, of War, and of the Cabinet, Knight of the orders of the Black Eagle and of the Red Eagle, and of that of St. John of Jerusalem; and the Count Christian Henry Curt de Haugwitz, his Min-

ister of State, of War, and of the Cabinet, Knight of the orders of the Black Eagle and of the Red Eagle: and the President of the United States has furnished, with their full powers, John Quincy Adams, a citizen of the United States, and his Minister Plenipotentiary at the Court of His Prussian Majesty; which Plenipotentiaries, after having exchanged their full powers, found in good and due form, have concluded, settled, and signed the following articles:

ART. 1. There shall be in future, as there has been hitherto, a firm, inviolable, and universal peace, and sincere friendship between His Majesty the King of Prussia, his heirs, successors, and subjects, on the one part, and the United States of America, and their citizens, on the other, without exception of persons or places.

ART. 2. The subjects of His Majesty the King of Prussia may frequent all the coasts and countries of the United States of America, and reside and trade there in all sorts of produce, manufactures, and merchandise; and shall pay: there no other or greater duties, charges, or fees whatsoever, than the most favored nations are or shall be obliged to pay. They shall also enjoy, in navigation and commerce, all the rights, privileges, and exemptions which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the established laws and usages, to which are submitted the citizens of the United States and the most favored nations.

ART. 3. In like manner, the citizens of the United States of America may frequent all the coasts and countries of His Majesty the King of Prussia, and reside and trade there in all sorts of produce, manufactures, and merchandise, and shall pay, in the dominions of His said Majesty, no other or greater duties, charges or fees, whatsoever, than the most favored nation is, or shall be, obliged to pay; and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce, which the most favored nation does, or shall, enjoy; submitting themselves, nevertheless, to the established laws and usages to which are submitted the subjects of His Majesty the King of Prussia, and the subjects and citizens of the most favored nations.

ART. 4. More especially, each party shall have a right to carry their own produce, manufactures, and merchandise, in their own or any other vessels, to any parts of the dominions of the other, where it shall be lawful for all the subjects and citizens of that other freely to purchase them; and thence to take the produce, manufactures, and merchandise of the other, which all the said citizens or subjects shall in like manner be free to sell them, paying in both cases such duties, charges, and fees only, as are or shall be paid by the most favored nation. Nevertheless, His Majesty the King of Prussia and the United States respectively reserve to themselves the right, where any nation restrains the transportation of merchandise to the vessels of the country of which it is the growth, or manufacture, to establish against such nations retaliating regulations; and also the right to prohibit, in their respective countries, the importa-

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tion and exportation of all merchandise whatsoever, when reasons of State shall require it. In this case the subjects or citizens of either of the contracting parties shall not import nor export the merchandise prohibited by the other. But if one of the contracting parties permits any other nation to import or export the same merchandise, the citizens or subjects of the other shall immediately enjoy the same liberty.

ART. 5. The merchants, commanders of vessels, or other subjects or citizens of either party, shall not, within the ports or jurisdiction of the other, be forced to unload any sort of merchandise into any other vessels, nor to receive them into their own, nor to wait for their being loaded longer than they please.

ART. 6. That the vessels of either party, loading within the ports or jurisdiction of the other, may not be uselessly harassed or detained, it is agreed, that all examinations of goods, required by the laws, shall be made before they are laden on board the vessel, and that there shall be no examination after; nor shall the vessel be searched at any time, unless articles shall have been laden therein clandestinely and illegally; in which case, the person by whose order they were carried on board, or who carried them without order, shall be liable to the laws of the land in which he is; but no other person shall be molested, nor shall any other goods, nor the vessel, be seized or detained for that cause.

ART. 7. Each party shall endeavor, by all the means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land; and shall use all their efforts to recover, and cause to be restored to the right owners, their vessels and effects, which shall be taken from them within the extent of their said jurisdiction.

ART. 8. The vessels of the subjects or citizens of either party coming on any coast belonging to the other, but not willing to enter into port, or who, entering into port, are not willing to unload their cargoes or break bulk, shall have liberty to depart and to pursue their voyage, without molestation, and without being obliged to render account of their cargo, or to pay any duties, charges, or fees whatsoever, except those established for vessels entered into port, and appropriated to the maintenance of the port itself, or of other establishments, for the safety and convenience of navigators; which duties, charges, and fees, shall be the same, and shall be paid on the same footing as in the case of subjects or citizens of the country where they are established.

ART. 9. When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts, or within the dominions of the other, their respective subjects, or citizens, shall receive, as well for themselves, as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case; and if the operations of repair

shall require that the whole or any part of their cargo be unladed, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away. The ancient and barbarous right to wrecks of the sea shall be entirely abolished with respect to the subjects or citizens of the two contracting parties.

ART. 10. The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise; and their representatives, being subjects or citizens of the other party, shall succeed to their said personal goods, whether by testament, or *ab intestato*, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representative, such care shall be taken of the said goods, as would be taken of the goods of a native in like case, until the lawful owner may take measures for receiving them. And if question should arise among several claimants to which of them the said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all rights of *detraction* on the part of the Government of the respective States. But this article shall not derogate in any manner from the force of the laws already published, or hereafter to be published, by His Majesty the King of Prussia, to prevent the emigration of his subjects.

ART. 11. The most perfect freedom of conscience and of worship is granted to the citizens or subjects of either party, within the jurisdiction of the other, and no person shall be molested in that respect, for any cause other than an insult on the religion of others. Moreover, when the subjects or citizens of the one party shall die within the jurisdiction of the other, their bodies shall be buried in the usual burying grounds, or other decent and suitable places, and shall be protected from violation or disturbance.

ART. 12. Experience having proved, that the principle adopted in the 12th article of the treaty of 1785, according to which *free ships make free goods*, has not been sufficiently respected during the two last wars, and especially in that which still continues, the two contracting parties propose, after the return of a general peace, to agree, either separately between themselves, or jointly with other Powers alike interested, to concert with the great maritime Powers of Europe such arrangements and such permanent principles as may serve to consolidate the liberty and the safety of the neutral navigation and commerce in future wars. And if, in the interval, either of the contracting parties should be engaged in war, to which the

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other should remain neutral, the ships of war and privateers of the belligerent Power shall conduct themselves towards the merchant vessels of the neutral Power as favorably as the course of the war then existing may permit, observing the principles and rules of the law of nations, generally acknowledged.

ART. 13. And in the same case of one of the contracting parties, being engaged in war with any other Power, to prevent all the difficulties and misunderstandings that usually arise respecting the merchandise of contraband, such as arms, ammunition, and military stores of every kind, no such articles carried in the vessels, or by the subjects or citizens of either party, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time as the captors may think necessary to prevent the inconvenience or damage that might ensue from their proceeding; paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors: and it shall further be allowed to use, in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed, of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be permitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

All cannons, mortars, fire arms, pistols, bombs, grenades, bullets, balls, muskets, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, belts, cartouch-boxes, saddles, and bridles, beyond the quantity necessary for the use of the ship, or beyond that which every man serving on board the vessel, or passenger, ought to have; and, in general, whatever is comprised under the denomination of arms and military stores, of what description soever, shall be deemed objects of contraband.

ART. 14. To insure to the vessels of the two contracting parties the advantage of being readily and certainly known in time of war, it is agreed that they shall be provided with the sea-letters and documents hereafter specified.

1. A passport, expressing the name, the property, and the burden of the vessel, as also the name and dwelling of the master, which passport shall be made out in good and due form, shall be renewed as often as the vessel shall return into port, and shall be exhibited whensoever required, as well in the open sea as in port. But if the vessel be under convoy of one or more vessels of war belonging to the neutral party, the simple declaration of the officer commanding the convoy that the said vessel belongs to the party of which he is, shall be considered as establishing the fact, and shall relieve both parties from the trouble of further examination.

2. A charter-party; that is to say, the contract passed for the freight of the whole vessel, or the bills of lading given for the cargo in detail.

3. The list of ship's company; containing an indication by name, and in detail, of the persons composing the crew of the vessel. These documents shall always be authenticated, according to the forms established at the place from which the vessel shall have sailed.

As their production ought to be exacted only when one of the contracting parties shall be at war, and as their exhibition ought to have no other object than to prove the neutrality of the vessel, its cargo, and company, they shall not be deemed absolutely necessary on board such vessels belonging to the neutral party as shall have sailed from its port before or within three months after the Government shall have been informed of the state of war in which the belligerent party shall be engaged. In the interval, in default of these specific documents, the neutrality of the vessel may be established by such other evidence as tribunals authorized to judge of the case may deem sufficient.

ART. 15. And to prevent entirely all disorder and violence in such cases, it is stipulated, that, when the vessels of the neutral party, sailing without convoy, shall be met by any vessel of war, public or private, of the other party, such vessels of war shall not send more than two or three men in their boat on board the said neutral vessels, to examine her passports and documents. And all persons belonging to any vessel of war, public or private, who shall molest or insult in any manner whatever the people, vessels, or effects of the other party, shall be responsible in their persons and property for damages and interest; sufficient security for which shall be given by all commanders of private armed vessels before they are commissioned.

ART. 16. In times of war, or in cases of urgent necessity, when either of the contracting parties shall be obliged to lay a general embargo, either in all its ports, or in certain particular places, the vessels of the other party shall be subject to this measure, upon the same footing as those of the most favored nations, but without having the right to claim the exemption in their favor stipulated in the 16th article of the former treaty of 1785. But, on the other hand, the proprietors of the vessels which shall have been detained, whether for some military expedition, or for what other use soever, shall obtain from the Government that shall have employed them an equitable indemnity, as well for the freight as for the loss occasioned by the delay. And furthermore, in all cases of seizure, detention, or arrest, for debts contracted, or offences committed by any citizen or subject of the one party, within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases.

ART. 17. If any vessel or effects of the neutral Power be taken by an enemy of the other, or by a pirate, and retaken by the Power at war, they shall be restored to the first proprietor, upon the conditions hereafter stipulated, in the twenty-first article, for cases of recapture.

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ART. 18. If the citizens or subjects of either party, in danger from tempests, pirates, enemies, or other accident, shall take refuge, with their vessels or effects, within the harbors or jurisdiction of the other, they shall be received, protected, and treated with humanity and kindness, and shall be permitted to furnish themselves, at reasonable prices, with all refreshments, provisions, and other things necessary for their sustenance, health, and accommodation, and for the repair of their vessels.

ART. 19. The vessels of war, public and private, of both parties, shall carry freely, wheresoever they please, the vessels and effects taken from their enemies, without being obliged to pay any duties, charges, or fees, to officers of admiralty, of the customs, or any others; nor shall such prizes be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried out again at any time by their captors, to the places expressed in their commissions, which the commanding officer of such vessel shall be obliged to show. But, conformably to treaties existing between the United States and Great Britain, no vessel that shall have made a prize upon British subjects shall have a right to shelter in the ports of the United States; but, if forced therein by tempests, or any other danger, or accident of the sea, they shall be obliged to depart as soon as possible.

ART. 20. No citizen or subject of either of the contracting parties shall take from any Power with which the other may be at war, any commission or letter of marque for arming any vessel to act as a privateer against the other, on pain of being punished as a pirate: nor shall either party hire, lend, or give any part of its naval or military force, to the enemy of the other, to aid them offensively or defensively against the other.

ART. 21. If the two contracting parties should be engaged in a war against a common enemy, the following points shall be observed between them:

1. If a vessel of one of the parties, taken by the enemy, shall, before being carried into a neutral or enemy's port, be retaken by a ship of war, or privateer of the other, it shall, with the cargo, be restored to the first owners, for a compensation of one-eighth part of the value of the said vessel and cargo, if the recapture be made by a public ship of war; and one-sixth part, if made by a privateer.

2. The restitution in such cases shall be after due proof of property, and surety given for the part to which the recaptors are entitled.

3. The vessels of war, public and private, of the two parties, shall reciprocally be admitted with their prizes into the respective ports of each: but the said prizes shall not be discharged or sold there, until their legality shall have been decided, according to the laws and regulations of the State to which the captor belongs, but by the judicatories of the place into which the prize shall have been conducted.

4. It shall be free to each party to make such regulations as they shall judge necessary for the conduct of their respective vessels of war, public and private, relative to the vessels which they shall take and carry into the ports of the two parties.

ART. 22. Where the contracting parties shall have a common enemy, or shall both be neutral, the vessels of war of each shall, upon all occasions, take under their protection the vessels of the other going the same course, and shall defend such vessels, as long as they hold the same course, against all force and violence, in the same manner as they ought to protect and defend vessels belonging to the party of which they are.

ART. 23. If war should arise between the two contracting parties, the merchants of either country, then residing in the other, shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artisans, manufacturers, and fishermen, unarmed, and inhabiting unfortified towns, villages, or places, and, in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burnt, or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power, by the events of war, they may happen to fall; but if anything is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

ART. 24. And to prevent the destruction of prisoners of war, by sending them into distant and inclement countries, or by crowding them into close and noxious places, the two contracting parties solemnly pledge themselves to the world, and to each other, that they will not adopt any such practice; that neither will send the prisoners whom they may take from the other into the East Indies, or any other parts of Asia or Africa; but they shall be placed in some part of their dominions in Europe or America, in wholesome situations; that they shall not be confined in dungeons, prison ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs; that the officers shall be enlarged on their paroles within convenient districts, and have comfortable quarters, and the common men be disposed in cantonments open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for their own troops; that the officers shall also be daily furnished by the party in whose power they are with as many rations, and of the same articles and quality, as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them with such rations as they allow to a common soldier in their own service; the value whereof shall be paid by the other party on a mutual adjustment of accounts for the subsistence of prisoners at the close of the war; and the said accounts shall not be mingled with, or set off against any others, nor the balances due on them be withheld as a satisfaction or reprisal for any other article, or for any other cause, real or pretended whatever; that each party shall be allowed

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to keep a commissary of prisoners, of their own appointment, with every separate cantonment of prisoners in possession of the other, which commissary shall see the prisoners as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters to those who employ him; but if any officer shall break his parole, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual officer, or other prisoner, shall forfeit so much of the benefit of this article as provides for his enlargement on parole or cantonment. And it is declared, that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this and the next preceding article; but, on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be as sacredly observed as the most acknowledged articles in the law of nature or nations.

ART. 25. The two contracting parties have granted to each other the liberty of having each, in the ports of the other, Consuls, Vice Consuls, Agents, and Commissaries, of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations. But if any such Consul shall exercise commerce, he shall be submitted to the same laws and usages to which the private individuals of their nation are submitted in the same place.

ART. 26. If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional.

ART. 27. His Majesty the King of Prussia, and the United States of America, agree that this treaty shall be in force during the term of ten years from the exchange of the ratifications; and if the expiration of that term should happen during the course of a war between them, then the articles before provided for the regulation of their conduct during such a war shall continue in force until the conclusion of the treaty which shall restore peace.

This treaty shall be ratified on both sides, and the ratifications exchanged within one year from the day of its signature, or sooner, if possible.

In testimony whereof, the Plenipotentiaries before mentioned have hereunto subscribed their names and affixed their seals.

Done at Berlin, the eleventh of July, in the year one thousand seven hundred and ninety-nine.

JOHN QUINCY ADAMS,
CHARLES GUILLAUME,
Comte de Finckenstein.
P. CHAS. D'ALVENSLEBEN,
Minister of State, &c.
CHRETIEN HENRI-CURCE,
Comte de Haugwitz.

The following instructions and correspondence were communicated to the Senate by the Message of 17th February, 1799:

Instructions from the Secretary of State to John Quincy Adams, Minister Plenipotentiary to Prussia.

DEPARTMENT OF STATE, *July 15, 1797.*

SIR: By inspecting the Treaty of Amity and Commerce, concluded in the year 1785, between the United States and the late Frederick the Second, King of Prussia, you will observe that it was to be in force during the term of ten years from the exchange of ratifications. This exchange took place about the month of September, in the year 1786, and, of course, the treaty has expired.

You will receive herewith a commission containing full powers to renew this treaty in its present form, for another term of ten years, but with the following exceptions, if the same shall be assented to on the part of the King.

1. It will be expedient to omit that part of the sixteenth article which exempts the vessels of each party from embargo, and to render them liable to a general embargo. There is a like clause of exemption in our treaty with Sweden, which occasioned disagreeable comparisons and real inconveniences, when, by a general embargo in 1794, the vessels of all other nations, and of our own citizens, were detained in port.

2. The twenty-third article of our treaty with Prussia forbids the commissioning of privateers to take or destroy the trading vessels, or to interrupt the commerce of the contracting parties, in case a war should arise between them. And, considering the abuses too often committed by privateers, and the spirit in which privateering is commenced and prosecuted, it has sometimes appeared desirable to abolish the practice altogether. But the policy of this principle, as it respects the United States, may well be doubted; we are weak, at present, in public vessels of war, and our actual revenues are not adequate to the equipping of powerful fleets; but we are strong in the number of our seamen, in private wealth, and in the uncommon enterprise of our citizens. Our chief means, therefore, of annoying and distressing a maritime enemy would be our privateers. For these reasons, you will propose, and endeavor to effect, an alteration of the 23d article, and to leave commerce, in case of a war between us and Prussia, to the attacks of privateers.

The principle that free ships make free goods, is also found in the treaty with Prussia, (article 12.) It is a principle that the United States have adopted in all their treaties, (except that with Great Britain,) and which they sincerely desire might become universal; but treaties formed for this object they find to be of little or no avail, because the principle is not universally admitted among the maritime nations. It has not been regarded in respect to the United States when it would operate to their benefit, and may be insisted on only when it will prove injurious to their interest. You will, therefore, propose to abandon it in the new treaty which you are empowered to renew and negotiate with Prussia.

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On the like ground, you are to propose to admit of articles contraband of war; and, among them, to enumerate timber for ship building, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir-planks only excepted.

But, although these alterations appear desirable, yet if the state of things shall, in your judgment, render it expedient not to propose them, or, if proposed, not to insist on them, you will act accordingly. In another period of ten years, it will probably not occasion any material embarrassment between the United States and Prussia, to renew the treaty precisely in its present form. And, at this time, it is peculiarly interesting to us to conciliate the good will of that and other European nations.

Another, and the principal design of the President in this appointment was, to place at Berlin a Minister of your abilities and knowledge in diplomatic affairs, from whom, in the existing situation of Europe, correct intelligence and information highly interesting to the United States might be derived; and who, by his vigilance and sagacity, might find and embrace opportunities to promote their security and welfare.

A third object will be to renew the Treaty of Amity and Commerce between the United States and Sweden; for which, also, full powers are herewith transmitted. By the Swedish Minister at Berlin, or otherwise, you will make known to the Court of Sweden that you are invested with such powers.

The ratifications of the Swedish treaty, it is supposed, were exchanged in the beginning of the year 1784; as, on the 9th of March of that year, Dr. Franklin wrote from Paris to the Secretary of Foreign Affairs that he had made the exchange. In like manner, Mr. Adams wrote from London, on the 27th of October, 1786, that he had been in Holland, and exchanged the ratifications of the Prussian treaty. No documents are found to show the day when the exchange took place.

For the reasons above assigned, in respect to the Prussian treaty, that with Sweden should be altered, in the 17th article, so as to subject the vessels of Sweden, as well as those of other nations, to the effects of a general embargo: enemies' property found on board them to capture and confiscation, as good prize; and ship timber and naval stores (as before enumerated) to be deemed contraband of war. The right of privateering is to remain as already fixed in the treaty with Sweden. I have the honor to be, &c.,

TIMOTHY PICKERING,
Secretary of State.

From the Secretary of State to John Quincy Adams.
DEPARTMENT OF STATE, July 17, 1797.

SIR: In the instructions, dated the 15th instant, relative to your renewing our treaties with Sweden, you see expressed the earnest wishes of the United States that the principle that free ships should make free goods should become universal.

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This principle is peculiarly interesting to us, because our naval concerns are mercantile, and not warlike; and you will readily perceive that the abandonment of that principle was suggested by the measures of the belligerent Powers during the present war, in which we have found that neither its obligations by the pretended modern law of nations, nor the solemn stipulations of treaties, secured its observation; on the contrary, it has been made the sport of events. Under such circumstances, it appeared to the President desirable to avoid renewing an obligation which would probably be enforced when our interest should require its dissolution; and be condemned when we could derive some advantage from its observance.

But it is possible that, in the pending negotiations for peace, this principle of free ships making free goods may be adopted by all the great maritime Powers; in which case, the United States will be among the first of the other Powers to accede to it, and to observe it as a universal rule.

In like manner, if the rigid rule of the law of nations respecting contraband, should be relaxed, and ship timber and naval stores be declared free, we shall eagerly embrace this liberal rule.

The issue of the negotiations for peace, which we suppose to be now pending, will probably be known to you before it will be necessary to finish the renewal of the treaties between us and Prussia and Sweden; and you will conform our stipulations with those two Powers on the points above mentioned, to the result of those negotiations.

But if the negotiations for peace should be broken up, and the war continue, and more especially if, as you have conjectured, the United States should be forced to become a party in it, then it would be extremely impolitic to confine the enterprises and exertions of our armed vessels within narrower limits than the law of nations prescribes. If, for instance, France should proceed from her predatory attacks on our commerce to open war, the mischievous consequences of any other limitations will be apparent. All her commerce will be sheltered under neutral flags, while ours would remain exposed, as at present, to the havoc of her numerous cruisers.

These remarks, added to your instructions, will possess you fully of the principles by which the President desires you may be influenced in renewing the treaties with Prussia and Sweden.

I am, sir, with perfect esteem, &c.,

TIMOTHY PICKERING.

From the Secretary of State to John Quincy Adams.

DEPARTMENT OF STATE,
Philadelphia, March 17, 1798.

SIR: As the war continues, and as it now seems scarcely possible for the United States to avoid becoming a party in it, you will doubtless be determined, by your instructions of the 15th and 17th July last, in renewing our treaties with Prussia and Sweden, and to reject the article in each which stipulates that free ships shall make free

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goods. With this prospect before us, no considerations occur which should induce its admission. But the reasons suggested in those instructions are now strongly enforced by the law of the French Republic before cited,* if, as Mr. Fenwick supposes, though general in its expressions, it is really and exclusively intended to operate against the Americans. In this case, a renewal of that stipulation is positively to be refused. The Swedish and Prussian commerce will then be only on the footing of the commerce of Denmark, with whom we have no treaty; and if we must be involved in the war, it will be desirable that the commerce of those three Powers, in relation to the United States, should rest on one and the same principle. But if this iniquitous French law exists (and we have no room to doubt it) will all the Northern Powers submit to it? We hope not. We hope that the inordinate ambition of France, and avowed design to subjugate all Europe (of which she already calls herself "the great nation" and "the conqueror,") will excite the resistance of all the Powers whom her arms have not reached, and rouse anew those whom the course of events have induced to submit. At present Britain appears to be the only bulwark against the universal domination of France, by sea as well as by land. It is plain that those Powers who have avoided becoming parties in the present war, and have congratulated themselves on their superior policy and good fortune, will finally have no reason to rejoice: they were only reserved for future plunder and oppression. This is now strikingly verified in respect to the United States. Her exactions are as unexpected as her victories have been unexampled. Instead of stipulating for even future compensation for the many millions of which she has authorized her cruisers to rob us, she demands immediate contributions to the enormous amount of her depredations; making them the measure, not of rendering justice, but of increasing her oppression! A full knowledge of her treatment of our Envoys, and of the propositions made to them, would confound her partisans among us, convince our citizens in general of the impossibility of preserving their property and independence but by resistance, and produce general unanimity in the measures requisite for that end; or, if I am mistaken in this opinion, we are already under the yoke of foreign domination.

I have the honor to be, &c.

TIMOTHY PICKERING.

JOHN Q. ADAMS,
Minister, &c., Berlin.

*The following is the law referred to:

1. The character of a vessel, as neuter or enemy, is determined by her cargo. Therefore, all vessels laden with merchandise which has come from England, or her colonies, shall be declared good prize, whoever may be the owner.

2. Every vessel which, in the course of her voyage, shall have entered an English port, shall not enter the ports of the French Republic, except in case of distress, and when that cause shall have ceased, she shall immediately depart.

Correspondence.

List of Letters and Extracts from Letters of John Q. Adams to the Secretary of State, relative to his negotiation of the Treaty with Prussia.

No. 108. Extract, October 31, 1797.

No. 121. Extracts, May 17, 1798.

No. 122. Extracts, May 25, 1798.

No. 128. Extract, July 16, 1798, in which is enclosed a note from John Q. Adams to the Prussian Ministers, dated Berlin, July 11, 1798.

No. 136. Extracts, October 1, 1798, in which is enclosed a note to the Prussian Ministers, dated September 25, 1798.

No. 138. Original letter, October 30, 1798, in which is enclosed a note from Mr. Adams to the Ministers of the King of Prussia.

No. 141. Original letter, December 31, 1798, in which are enclosed two notes, one from the Prussian Minister to Mr. Adams, dated November 29, 1798; the other from Mr. Adams to the Prussian Minister, dated December 24, 1798.

No. 144. Original letter, April 4, 1798, enclosing a note from the Prussian Ministers, dated February 19, 1799, to Mr. Adams, with a copy of their full powers, and Mr. Adams's answer to them, dated March 16, 1799.

No. 147. Extract, May 10, 1799, enclosing a note from the Prussian Ministers, dated April 30, 1799, and the answer of Mr. Adams to them, dated May 4, 1799.

No. 150. Original letter, July 13, 1799, with the treaty perfected.

No. 108.

Extract of a letter from John Quincy Adams, Minister, &c., to Berlin, to the Secretary of State, dated

OCTOBER 31, 1797.

"A few days after I had the honor of writing to you last from London, I received a duplicate of your instructions, dated July 15th, together with a copy of those bearing date the 17th. I shall pay all the attention to them which their importance requires, and the circumstances will admit. It is, however, to my mind very questionable whether it will be expedient to propose the alterations suggested in your letters, except that relative to the embargo. The principle of making free ships protect enemy's property has always been cherished by the maritime Powers who have not had large navies, though stipulations to that effect have been more or less violated. In the present war, indeed, they have been less respected than usual, because Great Britain has held more uncontrolled the command of the sea, and has been less disposed than ever to concede the principle; and because France has disclaimed most of the received and established ideas upon the laws of nations, and considered herself as liberated from all the obligations towards other States which interfered with her present objects, or the interests of the moment. Yet, even during this war, several decrees of the French Convention, passed at times when the force of solemn national engagements was felt, have recognised the promise in

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the Treaty of 1778; and at times it has been in a great degree observed. France is still attached to the principles of the Armed Neutrality, and yet more attached to the idea of compelling Great Britain to assent to them. Indeed, every naval State is interested in the maintenance of liberal maxims in maritime affairs against the domineering policy of Britain. Every instance, therefore, in which these principles are abandoned by neutral Powers, which favor the rights of neutrality, is to be regretted as furnishing argument, or at least example, to support the British doctrines. These observations apply with more weight with regard to the Swedish Treaty than to the other, as I believe Sweden is peculiarly attached to the liberal system, and entertains hopes that it may finally prevail by the concurrence of all the maritime Powers, excepting only Britain."

No. 121.

Extract of a letter from John Quincy Adams to the Secretary of State, dated

BERLIN, May 17, 1798.

"I deem it highly inexpedient to propose any alteration in the principle agreed upon in our present treaty neutralizing enemy's property on board of neutral vessels. It is indeed true, that this stipulation has not, in the course of the present war, been observed by France. But she has uniformly professed her attachment to the principle, and attributed her violation of it to the example and previous practice of her enemy. There is certainly a great inconvenience, when two maritime States are at war, for a neutral nation to be bound by one principle to one of the parties, and by its opposite to the other; and in such cases it is never to be expected that an engagement favorable to the rights of neutrality will be scrupulously observed by either of the warring States. It appears to me, therefore, that the stipulation ought properly to be made contingent, and the contracting parties to a Commercial Treaty should agree that, in all cases when one of the parties should be at war and the other neutral, the bottom should cover the property, provided the enemy of the warring Power admitted the same principle, and practised upon it in their Courts of Admiralty; but, if not, that the rigorous rule of the ordinary law of nations should be observed.

"In truth, I am fully convinced that there is only one Power in Europe averse to the general establishment of the principle favorable to neutrality; a Power which does not even disguise the pretension of domineering upon the ocean, and whose naval force is almost equal to that of all the world besides. It must be admitted, that, so long as she rejects the liberal principle, every agreement of other nations between themselves admitting it, excepting contingently, as above stated, must, if it have any operation, operate altogether in her favor, and to her advantage; for while it gives her the benefit of a safe and protected neutral conveyance of her goods, it refuses the same to her enemy."

No. 122.

Extracts from a letter of John Quincy Adams to the Secretary of State, dated

BERLIN, May 25, 1798.

"I shall be guided by your instructions relative to the stipulations upon the subject of neutral commerce, though I have very recently written that, in my own opinion, the proposal of an alteration would be inexpedient. The reasons for my opinion are given in my last letter. Sweden and Prussia are both strongly attached to the principle of making the ship protect the cargo. They have more than once contended that such is the rule even by the ordinary laws of nations. A Danish author of some reputation, in a treatise upon the commerce of neutrals in time of war, lays it down as a rule, and argues formally, that, by the law of nature, free ships make free goods. *Lampredi*, a recent Florentine author, upon the same topic, has discussed the question at length, and contends that, by the natural law in this case, there is a collision of two rights equally valid; that the belligerent has a right to detain, but the neutral an equal right to refuse to be detained. This reduces the thing to a mere question of force, in which the belligerent, being ready armed, naturally enjoys the best advantage. I confess the reasoning of *Lampredi* has, in my mind, great weight, and he appears to have stated the question in its true light."

"I intend to propose a conditional article, putting the principle upon a footing of reciprocity, and agreeing that the principle, with regard to bottom and cargo, shall depend upon the principle guiding the Admiralty courts of the enemy. This will at once discover our own inclination and attachment to the liberal rule, and yet not make us the victims of our adherence to it, while violated by our adversaries. Whether the other party will, in either instance, accede to this, I cannot undertake to say; but you may be assured that, after your last instructions, I shall not accede to the renewal of the articles under their form in the previous treaties."

No. 122.

To their Excellencies the Ministers of State and of the Cabinet of the King.

The subscriber, Minister Plenipotentiary of the United States of America, upon his arrival at Berlin, had the honor to deliver to their Excellencies a copy of the full power with which he is charged, on the part of the United States, to renew the Treaty of Amity and Commerce between His Majesty and the United States, with such alterations as may be agreeable to both parties mutually.

He has now that of communicating to their Excellencies the alterations which he is ordered to propose, on the part of his Government, and to add some observations upon the motives which gave occasion to those propositions.

The twelfth article of the former treaty declares, that in case either of the high contracting

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parties should be at war with another Power, enemy's property, on board of the neutral vessel, shall not be subject to be made prize. It is proposed to substitute, instead of this rule, that of the ordinary law of nations, which subjects to seizure enemy's property on board of neutral vessels.

The Government of the United States is not unaware, that the principle which communicates to the cargo the character of the vessel, would be conformable to the interests of the United States, as they are persuaded it would be to those of Prussia, and all the Powers preserving neutrality in maritime wars, if it could be universally acknowledged and respected by the belligerent Powers. But it is known that the Powers most frequently engaged in naval wars do not recognise, or do not respect, the principle. The United States have had, during the present war, the experience that, even the most formal treaty did not suffice to secure to them the advantage of this principle; but, on the contrary, only contributed to accumulate the losses of their citizens, by encouraging them to load their vessels with merchandise declared free; which they have, notwithstanding, seen taken and confiscated, as if no engagement had promised them all security.

At the present moment neither of the Powers at war admits the freedom of enemy's property on board of neutral vessels. If, in the course of events, either of the contracting parties should be involved in war with one or the other of those Powers, she would be obliged to behold her enemy possess the advantage of a free conveyance for her goods, without possessing the advantage herself, or to violate her own engagements, by treating the neutral party as the enemy should treat her.

It is for the same reason proposed, instead of the thirteenth article of the former treaty, to admit a list of contraband of war, and to comprise in it ship-timber, tar, pitch, turpentine, and rosin, copper, (in sheets,) sails, hemp, cordage, and generally everything serving for the equipment of vessels, unwrought iron and fir planks excepted. These two changes indicate several additional articles, naturally proceeding from them: as, for instance, a designation of the papers which shall be necessary to ascertain the neutrality of vessels and their cargo; and, likewise, the restrictions proper to prevent the armed vessels of the belligerent Power from abusing the privilege of arresting neutral vessels, and seizing the enemy's property found on board.

By the sixteenth article of the former treaty, the vessels of the subjects or citizens of each of the high contracting parties, in the ports of the other, are declared exempt from all embargo. It is proposed, in the treaty, to subject them to every general embargo, which the respective Governments may judge necessary. This proposal is founded upon the necessity under which both Governments are supposed alike liable to find themselves, of imposing, from time to time, a general embargo upon all the vessels either in all its ports, or in certain particular ports; exceptions, then, might defeat the advantages which might be expected from this measure, and may, besides,

give occasion to comparisons, which one would wish to avoid, on the part of other nations, whose vessels would be detained with those belonging to the nation itself where the embargo should be laid.

The nineteenth article will require some alteration. By the present engagements of the United States, no vessel that shall have made either English or French prizes can obtain an asylum in the ports or harbors of the United States.

A modification of the twentieth article may declare that it shall not be understood to invalidate the guaranty of the French possessions in America, stipulated by the United States in their Treaty of Alliance with France, bearing date 6th February, 1778.

It is proposed to omit the last clauses of the twenty-third article, which declare, that, in case of war between the high contracting parties, the merchant and trading vessels shall not be subject to capture. This stipulation, being of little importance as to the high contracting parties, between whom no probability of war, no opposing interests which might lead to it, appear to exist; it is, therefore, in regard of other nations, who may require similar conditions when they might import very different consequences, that this engagement is desired to be omitted.

The twenty-fifth article of the former treaty grants mutually the faculty of keeping Consuls and Vice Consuls, agents and commissaries, in the respective ports: it adds, that their functions shall be determined by a particular agreement, when either of the parties shall appoint to such office. It would, perhaps, be well to stipulate that they shall enjoy the same privileges and powers as those of the most favored nations.

The duration of the new treaty may, like that of the old one, be limited to ten years, reckoning from the day of exchanging the ratifications, with the same faculty of renewing it again at the expiration of that period.

In submitting these observations and propositions to their Excellencies, the subscriber requests them to accept the assurance of his respect and high consideration.

JOHN Q. ADAMS.

Berlin, July 11, 1798.

No. 128.

Extracts of a letter from John Q. Adams, Esq., dated Berlin, 16th July, 1798, to the Secretary of State.

"On the 11th I delivered to Count Finckenstein, first Minister in the Department of Foreign Affairs, a memorial of which I herewith enclose a translation. I would send, at the same time, a copy of the original French, but I do not think it would be prudent to send it unciphered, and I have no French cipher with you: I presume you will not judge it material. I hope you will find it exactly conformable to your instructions and intentions. The proposal for abandoning the principle of making free ships cover enemy's property, I have repeatedly informed you will not be acceptable: still less will that of a large list of con-

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traband, especially comprehending many of the most material articles of Prussian exports. I have said, however, all that occurred to me as calculated to show that these would be but equitable alterations. If these proposals should be accepted, I have mentioned the necessity of some additional articles designating the papers that shall be deemed necessary to prove the neutrality of vessels and their cargoes, and to abuses by the armed vessels of the warring Power. The former treaty mentions the necessity of passports, but leaves their forms unsettled."

"I proposed an alteration of the nineteenth article, which appeared to me necessary to render it conformable to the twenty-fifth article of our treaty with Great Britain; and a modification of the twentieth, which might otherwise be liable to a collision with the guaranty in our treaty with France; although this treaty has, in numberless instances, been violated by the French Government, as it has not been declared by our Government formally dissolved, but as they have, on the contrary, invariably respected it, I thought the stipulation deserved attention."

"The twenty-fifth article referred to a future arrangement at the time when Consuls should be named. As this nomination had taken place, and no arrangement was made, an alteration of the article became necessary. I found, in our treaty with Spain, a precedent for what I proposed; and I believe it is what on our part is conceded alike to all foreign Consuls by law."

No. 136.

Extracts of a letter from John Q. Adams, Esq. to the Secretary of State, dated Berlin, Oct. 1, 1798.

"I have the honor to enclose herewith a copy of a note from the Department of Foreign Affairs here, in answer to mine of 11th July, with the proposals for the renewal of the treaty, which has heretofore been forwarded to you."

"The objections to the changes which, conformably to your instructions, I proposed, are those which I have constantly expected, and repeatedly announced."

"I shall reply to this note as soon as possible; but if you do not think it advisable to renew the stipulation for making the bottom cover the property, and for excepting at least ship timber from the list of contraband, I have no sort of expectation that either treaty will be renewed. At present, I consider myself as expressly forbidden from acceding to their proposal for renewing the twelfth article as it is, and have no idea that they will consent to leave it out."

[Referred to in Mr. Adams's despatch of Oct. 1, 1798.]

Messrs. Finckenstein, Alvensleben, and Haugwitz,
to Mr. Adams.

BERLIN, 25th September, 1798.

We have considered with great attention the official note which Mr. Adams, Minister Plenipotentiary of the United States of America, has transmitted to us the 11th of July of the present

year; and, after having discussed the objects of that note with the departments to which they relate, we now reply to it in detail.

The King could not but receive with due sensibility the desire manifested by the United States to cultivate with him the relations of friendship and good will, which have, until this time, subsisted between Prussia and the American Republic, and his Majesty is therefore well disposed to renew the Treaty of Commerce concluded at the Hague, the 10th of September, 1785; and to adopt in it the changes and modifications which the actual circumstances and the respective interests of the two contracting Powers may render necessary.

With this view, we have examined the propositions just made by the Minister Plenipotentiary of the United States, and we have the honor to communicate the observations to which they have given rise.

The first alteration proposed in his note relates to the 12th article of the ancient treaty, where it is said, "that, in case one or the other of the contracting parties shall be at war with any other Power, the vessels of the neutral Power may navigate in perfect safety in the ports and upon the coasts of the belligerent Powers; free ships making the merchandise free."

For this rule, the United States desire to substitute the following: "That all the property of enemies on board neutral vessels ought to be subject to seizure; and that neutral property on board enemies' vessels should remain free."

It cannot be denied that the ancient principle of the freedom of neutral navigation has been little regarded in the two last wars, and especially in that now carried on; but it is not the less true, that it served until the present time as a foundation and guide to the commerce of all neutral nations; and that, in consequence, it has been, and still is, followed and maintained. If, in the midst of the war now waging, its sudden abandonment and destruction should be advised, the following results might be expected:

1. Inevitable confusion would arise in all the commercial speculations of neutral nations, and the finishing blow would be given to the remonstrances and proceedings which are still urged, in numerous instances, both in England and France, for illegal captures.

2. We should directly oppose the Northern Powers, who maintain, to this very time, the ancient principle of armed convoys.

3. Nothing would be gained by establishing at the present period, the principle that neutral property on board enemies' vessels should be free. Neutral Powers would admit this principle with as much reluctance as the belligerent; and this would constitute an additional reason to authorize the judicial condemnation of the prizes made in contravention of the ancient rule.

4. Finally, supposing for an instant that the great maritime Powers of Europe should wish to acknowledge hereafter the principle substituted by the United States, it would only multiply the embarrassments in the proceedings against the

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privateers; for while, formerly, the character of the vessel decided at the same time that of the cargo, it would be necessary in future, to distinguish the one from the other, and provide separately the proofs of each.

All these difficulties combined prevent us from acceding to the alteration proposed by Mr. Adams; and we submit to his consideration, whether it would not suit the reciprocal interests of the two high contracting parties, as well as the interests of their commercial citizens and subjects, to suffer the twelfth article to remain provisionally as it is, in conformity with the system which they have maintained to the present time; and to add the eventual stipulation, "that, experience having unfortunately shown, in the course of the existing war, that the ancient principle of free neutral navigation has not been sufficiently respected by the belligerent Powers, the two high contracting parties, upon the return of a general peace, reserve the right of deciding definitely on this subject, either separately between themselves, or conjointly with other interested Powers, in order to concert, with the great maritime Powers of Europe, such arrangements as might serve to establish, in subsequent wars, upon fixed and permanent rules, the liberty and safety of neutral navigation." Mr. Adams proposes, also, to insert, in the thirteenth article, a specific list of the objects which shall be considered contraband in time of war, and to comprehend in it "ship timber, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, cordage, and generally all that serves to the equipment of vessels, unwrought iron and fir planks excepted."

If an attempt should be made to specify, in the new treaty, the articles of contraband, we are obliged to adhere to those which have been considered and adopted as such in the maritime convention concluded with Prussia and Russia, the 8th of May 1781, after the example of the Treaty of Commerce and Navigation formed between Russia and Great Britain, the 20th of June, 1766. The eleventh article of this last mentioned treaty declares contraband, "cannon, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, fusils, flints, matches, saltpetre, sulphur, hauberks, pikes, swords, sword belts, cartridge boxes, saddles and bridles, or whatever each man, serving on board a vessel, should be furnished," &c.

This list has been the foundation of those rules of maritime commerce which we have always followed, as well in former wars as in the war now carried on; and it appears to us to embrace all the articles which appertain in reality to contraband property, so called. If this list is susceptible of additional extension at all, we can never consent to its comprehending ship timber, one of the principal productions of the Kingdom of Prussia, and always regarded, in all maritime wars, as an object of unrestricted commerce.

On the other hand, we willingly agree with Mr. Adams, that it will be useful and necessary to designate with precision, in the fourteenth article, the papers and documents with which the master of every vessel should be furnished, in

order to establish the neutrality of the vessel and cargo. This should be done according to the usages admitted in our maritime tribunals.

1. The document showing the construction of the vessel, (building letter) or, in its absence, the contract of purchase. The original, or a certificate copy of either the one or the other.

2. The sea-letter, which, within the dominions of the King, is generally issued, for the term of one year, by the provincial officers appointed to inspect the affairs of the maritime commerce. It may be ordered, also, that the sea-letter ought to be renewed every time the vessel shall return to the port from whence she sailed.

3. The register of the crew.

4. The charter-party, or the contract, passed in bulk, for the freight of every vessel; or, where this is deficient, the proof in detail of what the cargo contains.

The change proposed in the fourteenth article is predicated on the suppression of the clause which, in case of a general embargo, would establish an exemption in favor of vessels belonging to the subjects or citizens of each of the two contracting parties. If the interests of the United States, and particular considerations, require in reality, a similar modification, the King will, on his part, accede to it. It will be just, however, to add a stipulation that, in these cases, the ships of the two nations, respectively, shall be treated equally with those of the most favored nation; and that an equitable indemnity should be granted to them as well for the freight as for the losses occasioned by detention.

Nor do we perceive any objection to the alterations proposed by articles XIX and XX, in order to adapt them to the relations subsisting between France and the United States. It may be declared, also, in article XIX, for the greater clearness and safety, that, among the prizes that may be carried into the ports and harbors of the United States, no neutral vessel or cargo shall be found among them, and still less when the property of Prussian subjects. The twenty-third article, which protected the merchant vessels from every species of capture, has, no doubt, been dictated solely by considerations of humanity and benevolence, and it will not be expunged without regret; but, inasmuch as this pleasing theory can with difficulty be enforced, it only remains to renounce it, whenever it can be done consistently with the political interests of the United States.

We acquiesce in the proposed addition to the twenty-fifth article, by which the Consuls of the two Powers, respectively, shall enjoy the same rights and privileges with those of the most favored nation; and we adopt again, for the duration of the treaty, the term of ten years, reckoning from the exchange of ratifications, and providing for its renewal at the expiration of that time.

We believe that, in the present note, we have replied fully to all the propositions which Mr. Adams has been charged to make; and we leave to him the care of transmitting to the United States the counter propositions and observations

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herein contained. We shall be ready, at any time thereafter, to resume the negotiation, and also to conclude the treaty whenever he may desire it.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

To Mr. ADAMS, *Minister, &c. of the U. S.*

No. 138.

BERLIN, Oct. 30, 1798.

SIR: I have the honor to enclose a copy of the note, which I this day delivered to Count Finckenstein, in reply to the answer of the Cabinet Ministry to my former note of 11th July. Before I delivered it, I had two conferences with Count Haugwitz, concerning the subject matter of it. He professed himself highly satisfied with the within note, and assured me that there would not be the least objection made to expediting the business without waiting for further instructions to me from America. The proposal, to say nothing in the treaty relative to the property of enemies on board of neutral vessels appeared to have his assent altogether. I hope the answer to this note will not be delayed quite so long as that of the last; but as to what its tenor will be, I beg leave to refer you to my former letters, (No. 136, and those preceding it,) relative to this business. I have had no reason to alter my opinions therein expressed.

I have the honor to be, very respectfully, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

[Enclosed in No. 138.]

From Mr. Adams to Messrs. Finckenstein, Alvensleben, and Haugwitz.

BERLIN, October 29, 1798.

The undersigned, Minister Plenipotentiary of the United States of America, considers it his duty to submit to the consideration of their Excellencies, the following observations on the subject of the objections presented, in the reply of their Excellencies to the note which he had the honor to transmit to them, dated the 11th of July of the present year, proposing certain alterations in the treaty about to be renewed between His Majesty the King of Prussia and the United States.

The principle on which is founded the proposed change respecting the security of enemy's property on board of neutral vessels, is, that, by the law of nations, in times of maritime war, the property of enemies on board of neutral vessels is subject to capture, and that the property of neutrals on board of enemies' vessels is free; that this rule cannot be changed, except by the general consent of all the maritime Powers, or by separate treaties, the stipulations of which cannot extend beyond the contracting parties; that the opposite principle, the establishment of which ought to be one of the principal objects of the Armed Neutrality, was

not universally acknowledged even during the period of the American war; and, during the existing war, has not been maintained by any of those Powers which, at that time, acceded to this system; that Prussia, herself, while one of the belligerents in the last war, did not admit it; and that, to the present moment, the ancient principle of the law of nations subsists in all its force among all the Powers, except in the case where the opposite rule is stipulated by the engagements of positive treaty.

In proposing, then, to acknowledge the freedom of neutral property on board the vessels of enemies, and to acknowledge as subject to capture the property of enemies on board neutral vessels, it is only desired to confirm, by treaty, the principles which exist, even at the present moment, independently of all treaties: it is intended, not to make a change in the existing state of things, but to avoid one.

Far from wishing to prescribe on this point to the belligerent Powers, it is not supposed that an agreement between Prussia and the United States could, in any manner, serve as a rule for other Powers, not being parties to the treaty, in order to legalize prizes; and, as the effect of this convention, even between the high contracting parties, could only extend to the future, without being retroactive, it is still less imagined that the reclamations and proceedings of the subjects of neutral Powers, whether in England or in France, would be at all regarded.

Nor has the idea ever occurred that this measure could come in conflict with the Powers of the North, who could not be bound by a treaty to which they would not be the contracting parties; besides, this opposition could not extend to Russia, since, far from sustaining the principle that the flag ought to protect the property, she has engaged, by her convention with Great Britain, dated the 25th of March, 1793, to employ all her efforts to prevent its being carried into effect during the existing war.

Sweden and Denmark reciprocally engaged, in the view of all Europe, by their convention dated the 27th of March, 1794, to lay no claim, in cases not provided for in treaties, to any advantage which shall not be supported by the universal law of nations, "recognised and respected to the present time, by all the Powers and all the Sovereigns of Europe." It is not conceived possible to comprehend, under this description, the principle that the property should follow the destiny of the flag under which it sails; and, it may be added, that constant experience has demonstrated the insufficiency of the protection afforded by armed convoys to this principle, since we have seen them follow their convoys regularly, without resistance, into the ports of the belligerent Powers, there to be adjudged according to principles established in their tribunals entirely opposed to the one which makes the vessel neutralize the cargo.

According to the settled usage of the tribunals of all the maritime Powers, the proofs of the character of the cargo ought to be distinct from those which concern the vessel. Even in the treaties

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which adopt the principle that the flag protects the property, it is common to stipulate for papers which designate the cargo, for the purpose of proving that it is not contraband. The charter-party, or the bill of lading, is among the papers required by the Prussian maritime tribunals, and which it is proposed to designate as necessary in the new treaty. It seems, then, that the adoption of the principle in question would not exact a single additional paper, and, consequently, would add nothing to the embarrassment of the proceedings against the armed vessels; or, at least, so little as to be considered a slight inconvenience in comparison with the losses and sufferings occasioned by the recognition of a principle which has been abandoned by all the maritime Powers, and which not one of them has effectually maintained; of a principle by which the high contracting party who might be at war would be disadvantageously bound, whilst her enemy would disregard it altogether, and the neutral would present to her citizens or subjects the allurements of a free commerce, only to see it interrupted, intercepted, and destroyed.

But, as the opinions entertained by this Government appear to differ from those of the Government of the United States on the subject of the principles prescribed by the law of nations, and, as it appears to their Excellencies that many inconveniences may result from the substitution of a principle opposed to the one contained in the ancient treaty, the undersigned has the honor to propose to omit entirely this part of the article, and on this point to enter into no engagement whatever; this will leave it in the state in which it formerly stood, without requiring of either of the high contracting parties any stipulation on the subject. And as the establishment of a stable and permanent principle, with the hope of seeing it respected and maintained in future wars, is an object important to commerce in general, and especially to that of the high contracting parties, the undersigned will readily consent to an eventual stipulation similar to that which their Excellencies propose, which, without implying, on the one part or the other, the admission of a contested principle, will defer a decision upon the subject to the period which will follow a general peace, either by an agreement between the high contracting parties, or in concert with the Powers who are interested in its adjustment. At the same time, the United States will be always disposed to adopt the most extended principles which can be desired in favor of the freedom of neutral commerce in time of war, from the moment that they can flatter themselves with seeing it adopted and recognised in a manner to insure its execution.

As to the list of contraband, the undersigned is persuaded that his Government has only been desirous to specify the articles enumerated in his last note, because they have been considered in the class of contraband articles by the laws of nations, independently of treaties. But, inasmuch as ship-timber constitutes an object so important to the commerce of Prussia, he is persuaded that in consenting to exclude it from the proposed list,

and thus furnishing the evidence of a desire to conform to the wishes of His Majesty's Government, he will not fail to receive the entire approval of his own.

By the laws and usage of the United States, their vessels ought to be provided with the papers and documents designated by their Excellencies as required by the maritime tribunals of Prussia, such as the sea-letter, the charter-party, or the bill of lading; and, instead of the *beil-brief*, a certificate of the registration, signed by a public officer, and which proves the ownership of the vessel, as well as the time of her construction. Not one of the commercial treaties which have been formed by the United States, to the present time, requires the muster-roll. A great proportion of the remonstrances now made in France, by citizens of the United States, against the depredations of French privateers, are founded on the seizure of their vessels, with their cargoes, for not having been furnished with the muster-roll, a document not required by the treaty with France. If it were possible that foreign tribunals could avail themselves of a convention between Prussia and the United States only, as the pretext of their decisions upon prizes previously made, and concerning which another treaty prescribed the rule, some reason would exist for hesitation in admitting the muster-roll among the papers which it is proposed to specify in the treaty. No difficulty, however, will arise on this point. But, in order to avoid the multiplication of papers, he submits to the consideration of their Excellencies, whether it will not suffice to designate, in addition to the charter-party, or the bill of lading, and the muster-roll, the sea-letter, adding to it the name, the ownership, and the port of the vessel, with the name and residence of the captain, without at the same time requiring the "document of construction," which could only serve to repeat the same proofs.

The condition, that, in the event of an embargo, the ships of the high contracting parties shall receive the same treatment with those of the most favored nation, (with the exception of those exempted by a reciprocal engagement from all embargoes,) and shall receive an equitable indemnity on account of the freight, and for the losses occasioned by detention, is in itself too just to occasion any difficulty.

A reciprocal stipulation not to admit in the ports of one of the high contracting parties the prizes taken from the other, will be equally acquiesced in, as far as is compatible with the prior engagements of the United States, who, by several treaties, have agreed with other Powers for the reciprocal admission of prizes in the ports of each other.

In submitting these observations to the judgment of their Excellencies, the undersigned cannot refrain from tendering his own acknowledgments, as well as the satisfaction which he has no doubt will be felt by his Government, for the readiness with which they have acceded to the other alterations it became his duty to propose. The United States will see in this an unequivocal proof of the good will and friendship of His Majesty

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which they cannot estimate too highly. If the present observations and propositions shall have the good fortune to receive the assent of their Excellencies, he hopes that they will be willing to pursue this object, and to put their last hand to the work, without waiting the return of a correspondence so remote as that with the United States. Without wishing to hasten their decision, or to manifest impatience upon a subject which appears to his Government important, he has to regret the delays which have been already caused by events in the course of the negotiation with which he has the honor to be charged. He considers it, therefore, a duty which he owes to his Government and country, to solicit the consent of their Excellencies to permit no further delay to the termination of this business, which may not be required by urgent and indispensable considerations.

JOHN Q. ADAMS.

To the MINISTERS OF STATE, &c.

No. 141.

BERLIN, *December 31, 1799.*

SIR: I have now the honor to enclose copies of the answer of the Cabinet Ministry to my note of the 29th of October, concerning the renewal of the commercial treaty between the United States and Prussia, and of my reply, which I presented to Count Finckenstein on the 25th instant. During the interval from the time when I received the answer, I had repeated conversations with Count Haugwitz upon the subject, and the substance of my reply was founded upon the result of those conversations.

You will observe, by these papers, how tenaciously this Government adheres to the principle of making neutral bottoms cover enemy's property in time of war, and to the very limited list of contraband contained in the treaty of 1766 between Russia and Great Britain. At the time when Frederic II. acceded to the Armed Neutrality, having no commercial treaty with any of the then belligerent Powers, he adopted this list as that which was most favorable to neutral interests, and it has ever since been considered here as the criterion of contraband. After having given up, in my last note, the article of timber for ship-building, I should most probably have abandoned the other naval stores in the present, had not your letter of September 24, expressed so much indifference whether the treaty should be renewed at all. I shall yet abandon them if this Government should persist in rejecting them.

Upon the other point, the stipulation proposed instead of the twelfth article of the old treaty, expressly holds out the question concerning neutral bottoms and goods as a contested point, and it is preceded by a labored argument to prove that, by the present law of nations, the principle of the old treaty is prescribed. But, in conformity to your instructions, I did not think myself authorized even to admit, by any implication, that the principle prescribed by the law of nations can be a subject of controversy, and hence, in objecting to

the words which present it as such, it was necessary to answer the arguments in maintenance of the position.

I have, in my reply, offered two alternatives for avoiding, in the new treaty, any mention of the point; and, if a positive inference could be drawn from what Count Haugwitz assured me was his opinion, I might conclude that one or the other of them might be accepted. I shall not be surprised, however, if the difficulty in this case should still recur; for I judge, from what has hitherto passed, that they are apprehensive an alteration of the express agreement in the treaty of 1785 might be construed into an abandonment of the principle, unless the substituted article should contain some expression which should evidently reserve it; and it is perfectly clear that they are extremely averse to abandon the principle. Their own convention with Great Britain, in 1793, is, to be sure, an argument against them, so strong in itself, that I have not thought it necessary to dwell much upon it, and therefore barely alluded to it in my second note. You will see how they explain it in the enclosed answer, and consider it as compatible with the system which, at other times, Prussia has maintained, and now again wishes to support.

In the discussion concerning the papers to be specified for the purpose of ascertaining the neutrality of merchant vessels and their cargoes in time of war, as I had not the benefit of your instructions, I was obliged to proceed upon such principles as occurred to my mind as best calculated to answer the object proposed by those papers. The sea-letter, the muster-roll, and the invoices, appeared indispensable in a treaty which does not adopt the principle of allowing the bottom to protect both persons and goods; but the other paper, for which they so strenuously contend, seemed to me unnecessary, as tending to prove nothing but what the sea-letter alone suffices to show, and as binding the parties to certain forms of documents which their internal commercial regulations might require to be altered. In my last conversation with Count Haugwitz, he concurred with me fully in the opinion; and I hope, therefore, that the additional paper will not be insisted upon. I have felt more embarrassment upon this subject, because I have not with me the latest laws of the United States prescribing the papers with which vessels of the United States must be provided.

The case of the Wilmington packet, upon which so many fruitless applications were made to the Government in Holland for indemnity, suggested to me the idea of allowing time, after the breaking out of war, for the neutral nation to furnish its vessels with the proper papers.

Since receiving your letter of the 25th of September, I have felt much less anxious about the speedy conclusion of the treaty than I was before. In one of my last conversations with Count Haugwitz, I told him that, if the Prussian Government had the smallest scruple or hesitation about the renewal of the treaty, on account of the situation of our affairs with France, I knew enough of the sentiments of my Government to assure him that they

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were by no means desirous that Prussia should take any step at which she should feel the smallest reluctance, and, if she thought it most expedient, would postpone the conclusion of the treaty until a time which should be perfectly suitable to both parties. He said he was very glad I had given him an opportunity to assure me, in the most positive and unequivocal manner, that the situation of our affairs with France had never entered into the consideration of His Majesty's Government, in regard to the renewal of the treaty, and that it certainly never would. That the friendly sentiments of the King towards the United States rested upon grounds which could not be affected by the changes in the political views of other European Powers, and that the transactions between the American and French Governments were of a nature which could not induce any impartial and honest third party to favor the latter. He then expressed [himself] with great bitterness and severity concerning the conduct of the French Government in general, and especially upon its present treatment of the King of Sardinia.

Since beginning this letter, I have received your favor of the 7th of November. No. 11, with duplicates of the Nos. 6, 7, 8, 9, and 10; a copy of your letter to Mr. Gerry, of the 25th of June; of your despatch to Mr. King, of the 17th of September, 1796; and extracts of his letters of the 13th of April, and the 3d of June, 1797. I have the honor to be, very respectfully, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

The Prussian Minister to Mr. Adams.

BERLIN, 29th November, 1798.

We have received the last note which Mr. Adams, Minister Plenipotentiary of the United States of America, has done us the honor to transmit, dated the 29th of October; and we hasten to reply to it, in order to show how greatly it is desired, on our part, to expedite the negotiation with which we are now entrusted, by every means in our power.

Whatever may be the reciprocal dispositions of Mr. Adams, in this respect, it appears, nevertheless, that he finds some difficulty in acknowledging the force of the reasons which have prevented us from agreeing to the proposed alterations relating to the twelfth article of the Treaty of 1785. He objects that, by the ordinary law of nations, the property of neutrals, on board the vessels of enemies in times of war, is free. This rule, it is true, has heretofore been followed by most of the Powers of Europe, and it is to be found in many treaties which have been concluded during the fifteenth and fourteenth centuries; but it is also known that it has been since abandoned: the inconveniences to which it was liable having determined the maritime and commercial nations to depart from it. In the year 1646, the two treaties concluded by the States General of the United Provinces with France and England, have stipulated, "that

the vessels of friends and neutrals shall render their cargoes free:" and this principle, thus laid down, has been re-affirmed and preserved in almost all the treaties concluded since that epoch among the commercial nations of Europe. The convention formed between Russia and England, in the years 1798, which Mr. Adams cites in his note, is directed against France exclusively, and is, therefore, only an exception to the rule; and if it be true that, in the beginning of the present war, the combined Powers have thought proper to depart from the received principle, this momentary deviation can only be attributed to particular circumstances; and it is not, on that account, the less true, that Prussia had but one permanent system in relation to commerce and neutral navigation. It is founded on the maxim declared in the twelfth article of her ancient treaty with the United States of America; and this rule is better adapted than any other to the convenience of commercial nations: it has restricted the formalities of the required proofs concerning the ownership of the different cargoes of the same vessel; it protects navigation against vexatious searches; and, in a word, arrests the abuses and shackles of every kind to which it is exposed.

We are, moreover, convinced that, in the existing war, in which the commerce and navigation of neutrals are subjected to so many interruptions, purely arbitrary, the principle proposed by Mr. Adams would not be more respected than the former; many examples having occurred which show that even neutral vessels laden only with neutral merchandise are liable to be seized and confiscated under all sorts of pretexts, however frivolous.

But it would be useless to extend this discussion; Mr. Adams being convinced, with us, that, instead of hazarding a new stipulation, both eventual and uncertain, it would be better to leave it in suspense until the epoch of a general peace; and then to consider with earnestness the means of insuring the freedom of neutral commerce, and placing it, in future wars, upon a solid basis. Nothing, therefore, remains to be done at present except to suppress, provisionally, the twelfth article of the ancient treaty, and to substitute the following stipulation, to which we suppose that no objection can be made:

"Experience having shown that the principle adopted in the twelfth article of the Treaty of 1785, according to which free ships make the merchandise free, has not been sufficiently respected during the two last wars, and especially in that which is now carried on; and that contradictory dispositions of the principal belligerent Powers not permitting, at the present time, a satisfactory adjustment of the litigated question; the two high contracting parties reserve to themselves the right, after the restoration of a general peace, to resume this subject, either separately between themselves, or conjointly with other Powers whom it also concerns, in order to concert with the great maritime Powers of Europe such arrangements and such permanent principles as may serve to confirm, in future wars, the freedom and safety of neutral navigation and commerce."

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Mr. Adams having, in his last note, replied to the reasons which prevent the Prussian Government from including ship timber in the class of contraband articles, we propose to him the alternative either to retain the thirteenth article of the ancient treaty as it is, or to insert in it, specifically, the list of contraband articles extracted from the eleventh article of the Treaty of Commerce and Navigation concluded between Russia and Great Britain, the 20th of June, 1766. If the precaution shall appear necessary, it will suffice to add to the end of the thirteenth article of the new treaty the following passage:

"Shall be considered objects of contraband, cannon, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, fusils, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, sword-belts, cartouch-boxes, saddles and bridles, beyond the quantity which may be necessary for the use of the vessel, and beyond that which each man serving on board the vessel, or each passenger, ought to possess; and, in general, all that can be comprised under the denomination of arms, provisions, and munitions of war, of whatever kind they may be."

We only desire to simplify the formalities and the proofs which are required of the owners of vessels, in order to verify the neutrality of the vessel and of the cargo; in this respect, however, we are obliged to consult the rules established by our laws, and the usages received in our maritime tribunals. The document of construction (called *beil-brief*;) being precisely the one which proves the neutral quality of the ship, it appears impossible to erase it from the list of papers with which the Prussian navigators should be provided. But as this document is not used in the same form in the American Republic, nothing, in our opinion, would prevent the substitution, by American navigators, of the certificate of registry, which is the equivalent for it, and set forth this difference in the new treaty.

In return, we willingly consent to dispense with the muster-roll, which, it appears, the Constitution of the United States does not allow; but it will be preserved, notwithstanding, among the number of documents prescribed by our laws to the Prussian navigators, and this difference will be also declared in the new treaty.

We entirely concur with Mr. Adams in the other modifications proposed by him, respecting the articles 16, 19, 20, 23, and 25; and as we presume that he will readily accede to the equitable observations submitted to his consideration in the present note, we shall expect his assent, in order to reduce the new treaty into proper form, and close, as soon as possible, a negotiation, the prompt and happy termination of which is alike desired by us and him.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

Mr. Adams to the Prussian Ministers.

BERLIN, 24th December, 1798.

The undersigned, Minister Plenipotentiary of the United States of America, has seen, with plea-

sure, in the reply of their Excellencies, in their last note, that almost all the points relating to the renewal of the Treaty of Commerce between His Majesty and the United States, which required discussion, are adjusted; and that, with regard to those upon which some further explanation is still necessary, no difficulty will arise sufficiently serious to retard the conclusion of the negotiation to the entire satisfaction of the two Governments.

He would not hesitate to subscribe to the stipulation proposed by their Excellencies, as a substitute for the 12th article of the ancient treaty, if he could omit the following words: "And the opposing dispositions of the belligerent Powers not permitting the satisfactory adjustment, at the present moment, of the contested question." It is possible that the belligerent Powers may find in these expressions a kind of sanction to their dispositions, which would not accord with the intentions of the high contracting parties; and besides, the undersigned would desire to omit entirely an allusion to a point, of which it is the desire of the two Governments to defer the consideration, rather than to announce it formally as a contested question.

In order to justify the opinion of his Government, on the subject of the principle in question, he believes it his duty to observe that it is not founded on the treaties of the fourteenth and fifteenth centuries. He considers the principle of the law of nations as absolutely distinct from the engagements stipulated by particular treaties. These cannot establish a fixed principle on this point; because such stipulations bind only the parties by whom they are made, and the persons on whom they operate; and because, too, in the seventeenth and eighteenth centuries, as well as in the fourteenth and fifteenth, different treaties have adopted different rules for each particular case, according to convenience and agreement of the contracting parties.

Rejecting, therefore, all positive engagements stipulated in treaties, it may be well doubted whether, antecedently to the American war, a single example can be found of a maritime belligerent Power who has adopted the principle that enemy's property is protected by a neutral flag. For, without speaking of England, whose system in this respect is known, France by the ordinance of 1744, renewing the provisions of that of 1781, declares enemies' property on board neutral vessels subject to seizure and confiscation. It excepts from this rule the ships of Denmark and the United Provinces, conformably to the treaties then existing between these Powers and France. This ordinance has continued to have its effect, in the tribunals of France, to the epoch of the ordinance of the 26th July, 1778. By the first article of this last, the freedom of enemies' property on board of neutral ships is yielded to neutrals as a favor, but not as a principle of the laws of nations, since the power is reserved to withdraw it at the expiration of six months, if a reciprocal stipulation should not be conceded by the enemy. Spain by the ordinances of the 1st of July, 1779, and 13th of March, 1780, ordered, in like manner, the seizure

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and confiscation of enemies' property found in neutral vessels.

It will only be added, that a celebrated publicist, a Prussian subject, who, in the latter part of the present century, wrote a highly esteemed work upon the laws of nations, *Vattel*, says expressly, (book 3, section 115,) that "when effects belonging to an enemy are found on board a neutral vessel, they may be seized by the laws of war." He cited no example where the opposite principle has been practised or insisted on.

When the system of armed neutrality, however, was announced, the United States, although a belligerent Power, hastened to adopt its principles; and during the period succeeding this epoch in which they were engaged in war, they scrupulously conformed to them. But, on the first occasion, when, as a neutral Power, they might have enjoyed the advantages attached to this system, they saw themselves deprived of these advantages, not only by the Powers who had never acceded to these principles, but also by even the founders of the system. The intentions of the combined Powers, it is true, were exclusively directed against France, but the operation of their measures did not extend the less to all neutrals, and especially to the United States. However peculiar may have been the circumstances of the war, the rights of neutrality could not be thereby affected. The United States have regretted the abandonment of principles favorable to the interests of neutrality, but they have perceived their inability to prevent it; and they are persuaded that equity cannot require of them to be the victims, at the same time, both of the rule and of the exception; to be bound, as a belligerent party, by laws, of the advantages of which, as a neutral Power, they are wholly deprived.

It is the wish, however, of the Government of the United States, to prove that it has no desire to depart from the principles adopted by the Treaty of 1785, except upon occasions when an adherence to those principles would be an act of injustice to the nation whose interests are confided to it. In consequence of the instruction he has received, the undersigned has the honor to propose, in adopting, (with the omission of the words already cited,) the stipulation contained in the note of their Excellencies, as a substitute for the twelfth article, the insertion of a clause to the following effect:

"And if, during this interval, one of the high contracting parties shall be engaged in a war to which the other is neutral, the belligerent Power will respect all the property of enemies laden on board the vessels of the neutral party, provided that the belligerent Power shall acknowledge the same principle with regard to every neutral vessel, and the decision of his maritime tribunals shall conform to it."

If this proposition has not the good fortune to be accepted by their Excellencies, the undersigned takes the liberty to make another; it is to adopt nearly the formula of the Treaty of 1766, between Russia and Great Britain, and to say that, "as to the search of merchant vessels, *in time of war*, the vessels of war and the private armed vessels of

the belligerent Power will conduct themselves as favorably as the object of the then existing war will permit; observing, as much as possible, the principles and rules of the laws of nations, as generally recognised."

He cites this Treaty between Russia and Great Britain, because their Excellencies propose to take it as authority in defining the articles of contraband, and because this article is renewed by the Treaty of Commerce concluded between the same two Powers the 10th (21st) February, 1797.

The undersigned had flattered himself, after their Excellencies' reply to his first note, that ship timber would be the only article of those which he had specified which they would have any difficulty in admitting in the list of contraband. In adopting the proposition to preserve the principles, with regard to contraband, contained in the 13th article of the ancient treaty, he still hopes that they will consent to add the articles cited in his first note, with the exception of ship timber, to the list contained in the Treaty of 1766, between Russia and Great Britain. He had supposed that the stipulation that even contraband articles should not be subject to confiscation would have the tendency to facilitate this arrangement.

It would also, perhaps, be proper to omit the term *provisions*, which appears synonymous with that of munitions of war, and which is susceptible of being interpreted in a broader sense than that intended by the high contracting parties.

As to what regards the papers to be produced, in order to prove the neutrality of the vessels and their cargoes, the undersigned has the honor to observe, that, in designating certain documents, which the armed vessels of one of the high contracting parties should have the right to demand in time of war of the merchant vessels of the other, the respective Governments do not intend to resist the reciprocal power of ordering, for the municipal regulation of their commerce, whatever document or paper they may think proper to prescribe to their citizens or subjects; that, consequently, the Government of his Majesty may, at all times, require his commercial subjects to have the *veil-brief* on board their vessels; and, in like manner, the Government of the United States may order their seamen to be provided with a certificate of registry, although neither of these papers may be prescribed by the treaty. But, on the part of both, the nature of this document appears to be rather to prove the ownership of the vessel, on a question concerning the individual and his Government than the neutrality of the vessels, before the officers or tribunals of a foreign Power. It is the very document, on the credit of which the Government relies in granting its protection to the vessels which may be provided with it; but, as it regards foreigners it becomes a superfluous document, when the sea-letter, supported by the signature of public officers, gives still greater authenticity to all that it can attest.

When the armed vessel of a belligerent Power and the merchant vessel of a neutral Power meet together at sea, three objects are presented, to which the first will naturally look in order to as-

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certain the neutrality of the second—the vessel, the cargo, and the crew. Each of these objects has its own document. The sea-letter is that which particularly concerns the vessel; and, when it is found perfectly regular, it seems unnecessary to confer the right to exact others, the only effect of which would be to confirm what that alone ought sufficiently to prove.

The undersigned has taken the liberty to make these observations, because he has thought that the interests of the two high contracting parties would be equally consulted by not stipulating in a treaty for documents which seem more properly to appertain to the interior administration, and which each Government would probably desire to continue or to change, as its own policy might dictate, without embarrassment or control. A clause to that effect may even be added to this article, where a question may arise respecting the papers. However, if their Excellencies shall continue to think it necessary, the undersigned will not hesitate to specify the *beil-brief* for the Prussian vessels, and the certificate of registry for those of the United States, among the papers designated in the treaty.

He will also admit the muster-roll for the vessels of the two nations. This paper is not excluded by the Constitution of the United States. It is true, that it is not required by any of their former treaties; but the usage of having it is recently established, in consequence of the inconveniences which have been felt from not possessing it; and the Government will find no difficulty in expressly naming it in the new treaty, so as to prevent the possibility of any misunderstanding on this subject.

As all these papers ought to be stipulated only for the case when one of the high contracting parties shall be at war, and as their sole object is to prove the neutrality of the vessels and their cargoes, it would seem proper to give a delay (of three months, for example,) after the declaration of war, or notification of hostilities, before the expiration of which, these documents shall not be considered absolutely necessary. The justice of a similar arrangement will be evident, when it is considered that some time must be requisite to furnish the vessels of the neutral party with papers, the use of which will naturally cease in time of peace.

The undersigned has also the honor to apprise their Excellencies that, subsequently to the last note he has had the honor to transmit to them, he has received official information of a law of the United States, approved by the President of the United States, the 7th of last July, by which all the Treaties between the United States and France are declared to be no longer obligatory upon the Government and citizens of the United States. The reasons upon which this law is founded are declared in the preamble: "Because the engagements contained in these treaties have been manifestly violated on the part of the Government of France; because the just demands of the United States, for the reparation of these injuries, have been rejected, and their efforts to negotiate an amicable arrangement, upon all the differences existing between the two nations, rejected with indig-

nity; and because, under the authority of the Government of France, a system of predatory violence has been continued, opposed alike to the aforesaid treaties, and to the rights of a free and independent nation." In consequence of this law, it will not be necessary to stipulate, on the part of the United States, in the new treaty, the exceptions in favor of France, proposed in the first note of the undersigned; nor to renew that which is contained in the 19th article of the Treaty of 1785.

The undersigned concludes, by observing, that he only awaits the time which will be convenient to their Excellencies, either to receive the formal project of a treaty which they shall have prepared, or to present one himself, as shall be most acceptable to them.

JOHN Q. ADAMS.

The MINISTERS OF STATE, &c.

No. 144.

BERLIN, 4th April, 1799.

SIR: Since I had the honor of writing to you last, I have received from the department of Foreign Affairs here a note, with a copy of the full powers given by the King to the three Ministers at the head of that department, to renew the Treaty of Commerce between the two Powers, and they sent me, at the same time, the project of a treaty, in the French language. I have replied, by a note containing my observations upon such parts of the projected plan as appeared to me to require them, and have returned the plan, with such alterations noted in the margin as I thought would be necessary or proper, and with a copy of the same plan, as verified by the marginal alterations, in our own language, for the consideration of the Cabinet. I enclose herewith copies of these papers, excepting of the projects for a treaty, which I shall reserve until we shall have agreed upon the tenor of the instrument; and, in the notes themselves, you will see in what respect they differ from the former treaty.

It is more than a fortnight since I delivered to Count Finkenstein my reply, with the two projects; and Count Haugwitz had before had them a fortnight in his possession. He told me that there would be few objections, perhaps none at all, to the alterations I proposed; and I do not apprehend that any further essential difficulty will occur to impede an agreement and the conclusion of the treaty.

I did not think it expedient to insist any further upon comprising naval stores among the articles of contraband, because they had given up the point of making free ships free goods; and, as it was evidently with reluctance on their part, I considered myself fully authorized by your instructions to show a disposition to comply with their wishes in the other particular. These articles have, indeed never been allowed by this country to be contraband, and even Great Britain has generally considered them as free, so far as Prussia is concerned. In the general Prussian code of laws, they are expressly named as *not* contraband, and they could not have been admitted under the opposite denom-

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ination, without repealing a law which has reference to all other nations as well as to the United States.

The alteration in the twenty-first article I agreed, without hesitation, to adopt, as it appeared much more equitable than the former arrangement, and as the salvage allowed to ships of war is the same which the British Courts of Admiralty have allowed in cases of recapture of American vessels from French cruisers, though without any stipulation upon the subject by treaty. And I have not understood that any complaint has been made against this disposition.

I have the honor to be, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

The Prussian Ministers to Mr. Adams.

BERLIN, 19th February, 1799.

The note, dated the 24th December last, which Mr. Adams, Minister Plenipotentiary of the United States, has done us the honor to transmit, brings us to the close of the interesting negotiation with which we have been occupied with him during his residence at Berlin; and we now find ourselves prepared to communicate the subjoined *projet* of a new treaty, upon which it will be necessary to make a few observations.

We had proposed to him, in our note of the 29th November, to omit entirely the discussion which has arisen on the subject of the twelfth article, relating to neutral navigation; and we are now governed by the same desire in adopting, without variation, the stipulation which ought to be substituted for the one contained in the ancient treaty. Agreeably to the desire expressed by Mr. Adams, we have expunged the passage which refers to "the contradictory dispositions of the present belligerent Powers;" and following the analogy of the treaty concluded in 1766 between Russia and Great Britain, we have added an additional clause, which relates to the search of merchant vessels in time of war; by means of which this article will be found perfectly regular.

It is different with the thirteenth article, which concerns objects of contraband. We have declared to Mr. Adams, in our first note of the 25th of September, 1798, "that if it should be necessary to specify them in detail in the new treaty, we shall be obliged to restrict them to those which have been stipulated and adopted as such in the maritime convention concluded between Prussia and Russia, the 8th of May, 1781, after the example of the Treaty of Commerce and Navigation concluded between Russia and Great Britain, the 20th of June 1766."

According to this principle, we have declined to place ship timber on the list of articles of contraband; and we have also tacitly omitted the other exceptions which Mr. Adams has proposed to us. "These are, also, the productions of the soil, or of the industry of Prussia, which have been considered in every war as lawful merchandise, and which we have no power to prohibit.

Mr. Adams will, therefore, be willing, after our example, to adhere to the ancient list, which has, to the present time, served as a rule for all the maritime Powers. We have in this article omitted the word *provisions*, which seemed to him liable to objections.

To manifest to this Minister how much we are disposed to enter into his views, as well as to abridge superfluous formalities, we consent to suppress the document showing the building of the vessel, and we have, therefore, passed it over in silence to the 14th article; so that, in time of war, neutral vessels will have occasion for no other papers, except the sea-letter, muster roll, and charter party. Agreeably to the proposition of Mr. Adams, a delay of three months, after a declaration of war, is granted to the respective navigators to provide themselves with the required documents.

Finally, we have expunged from the nineteenth and twentieth articles the exceptions in favor of France, which have been revoked by the law of the United States of the 7th of last July.

After having thus yielded to the propositions of Mr. Adams, and to the views of his Government all that depended upon us, it remains for us to invite his attention to an article of the ancient treaty, which has not yet been noticed in the course of the negotiation, and which seems, nevertheless, to require revision. We refer to the twenty-first article, which has established, in 1785, exorbitant insurances, at the expense of the merchant vessels, which, in time of war, may be retaken from the enemy by vessels of war, or private armed vessels of either nation. The promised remuneration to private armed vessels has been fixed at one-third of the value of the vessel and cargo, when the vessel shall not have been in the power of the enemy more than twenty-four hours, and the owner would be condemned to lose the whole should the vessel be retaken after twenty-four hours.

As to the vessels of war, a thirtieth of the value is adjudged them, in the first case, and a tenth in the second. At the time the ancient treaty was concluded, these were the customary rates; but a new code of laws, subsequently introduced into the Prussian monarchy, has adopted on this subject the following regulation—*Title 9, § 208-10*:

"That if a Prussian privateer, or vessel of war, should retake a ship or merchandise belonging to the subjects of the King, or to those of a friendly neutral Power, the captor ought not to retain his booty, except where the vessel shall have been carried, before the recapture, into a neutral or enemy's port. But if the recapture has taken place before the vessel, or cargo, shall have been carried into an enemy's or neutral port, they shall be restored to the first owner upon a recompence being made; this recompence, in the case of private armed vessels, is fixed at one-third of the value; and, where vessels of war are concerned, it shall be determined, in each particular case, by the maritime tribunals."

This regulation, which has been sanctioned by a royal ordinance, published and dated the 24th

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of September, 1798, has, in many respects, moderated the stipulations of the Treaty of 1785, and especially has abolished the short and unjust delay of twenty-four hours, which formerly, to the injury of the legitimate owner, sufficed to determine the fate of a vessel captured by the enemy.

A short time, however, after this law had been introduced into the dominions of the King, the Court of Madrid invited His Majesty, last November, "to observe, reciprocally, in future, between the two Powers, the usages established by the maritime ordinances of Spain, declaring that every national vessel, friend or neutral, captured from the enemy, shall be restored to the owner, for a remuneration of one-eighth of the value, in the case of a vessel of war, and one-sixth to privateers only."

The King hastened to adopt the principle of humanity, thus proposed for his imitation by His Catholic Majesty; and the two Courts have accordingly agreed to conform to it.

It is to be presumed that the United States of America, who, in their first treaty with Prussia, have so clearly manifested their generous intention to withdraw, as much as possible, navigation and commerce from the effects of war, will not, on this occasion, evince a disposition less liberal than others; and we therefore believe that we can appeal with confidence to their Minister. He will himself perceive that we could not be at liberty to agree to the stipulations which would impair the sanctions of an existing law, and that, therefore, in any event, we shall be obliged to conform the twenty-first article to the first modifications herein announced. We would submit it to his option, whether in the treaty to be concluded he will adopt these modifications, or prefer, as a substitute, the still more moderate regulations derived from the maritime ordinances of Spain. In this respect, we will do whatever he may think proper to suggest; and we only expect his reply, to supply the article which remains in blank.

As soon as this shall be done, supposing that we are now agreed on all the other stipulations of our *projet*, we will cause two draughts of the treaty to be prepared, and will not fail to inform him of the day when we may assemble, for the purpose of proceeding to the signature and to the exchange of the full powers. In anticipation of which, we have the honor to communicate herewith a copy of that with which we are provided.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

To Mr. ADAMS, Minister, &c. of the U. S.

Full powers to the Ministers of State and of the Cabinet, Count of Finckenstein, Baron of Alvensleben, and Count of Haugwitz, having for its object the renewal of the Treaty of Commerce and Friendship with the United States of America.

We, FREDERICK WILLIAM the Third, by the grace of God, King of Prussia, make known to whomsoever it may concern :

The United States of America having proposed

to us the renewal of the Treaty of Commerce and Friendship which our august predecessor, King Frederick the Second of glorious memory, concluded with them the 10th September, 1785; and it being equally our intention to establish on a solid basis the ties of commerce and good intelligence which, to the present time, have so happily subsisted between Prussia and the American Republic: we have nominated, constituted, and deputed, and do nominate, constitute, and depute our Ministers Plenipotentiary—

Charles William, Count of Finckenstein, our Minister of State, of War, and of the Cabinet; Knight of the Orders of the Black and Red Eagle, and Commander of that of St. John of Jerusalem;

Philip Charles, Baron of Alvensleben, our Minister of State, of War, and of the Cabinet; Knight of the Orders of the Black and Red Eagle, and of that of St. John of Jerusalem;

And Christian Henri-Curce, Count of Haugwitz, our Minister of State, of War, and of the Cabinet, Knight of the Orders of the Black and Red Eagle:

To negotiate with John Quincy Adams, Minister Plenipotentiary of the United States of America near our Court, the Treaty of Commerce and Friendship which ought to be substituted for the former; giving them, by these presents, jointly and separately, full and absolute power to confer and deliberate on the objects relating thereto, to conclude the stipulations which a change of circumstances has rendered necessary, and thereafter to sign a new treaty; and such other conventions, declarations, or acts, as they may judge suitable, in order to consummate their negotiation: promising, upon the faith and word of a King, to consider as right, to hold firm and stable, forever, and to accomplish and execute punctually all that our said Ministers shall have stipulated, concluded, and signed, in virtue of the present full powers, without either contravening it, or permitting its contravention by others, from any cause, or on any pretext whatsoever; as also to cause our letters of ratification, in proper form, to be issued and delivered, in order to be exchanged within the time which may be agreed upon.

In faith of which, we have signed these presents, and have caused our royal seal to be affixed thereto.

Given at Berlin the 10th of December, in the year of our Lord 1798, and of our reign the second.

FREDERICK WILLIAM. [L. S.]

Mr. Adams to the Ministers of Prussia.

BERLIN, March 16, 1799.

The Minister Plenipotentiary of the United States of America has received the note of their Excellencies, dated the 19th February, accompanied by a copy of their full power, and the project which they have been pleased to transmit. He hastens to make some observations in reply, for which he solicits the indulgence they have been kind enough to extend to his previous representations on the same subject.

Relations with Prussia.

The ancient treaty of 1785 was concluded and signed, as an original, in two languages, the French and English; and the undersigned hopes that the new treaty will be executed in the same manner. Relying on this expectation, he has now the honor to transmit the project in the English language; in which he has repeated the terms of the ancient treaty, in every article where the project of their Excellencies has preserved the French terms, with the exception of two inconsiderable changes, rendered necessary by the alterations in the Constitution of the United States: the one in the preamble, the other in the fourth article.

As to the new articles, a translation has generally been made by the undersigned, in the project which their Excellencies have communicated. He would, in his opinion, very ill return the courtesy which he has received in the course of this negotiation, and not less imperfectly exhibit the deference which his Government has desired him to manifest towards His Prussian Majesty, if he insisted further on the article of contraband. He has, therefore, in this respect, adopted entirely the provisions contained in the project of their Excellencies.

Upon the same principle, he has not hesitated to adopt, in relation to maritime recaptures, the alternative of those proposed by their Excellencies, which he finds has been sanctioned by the approbation and preference of His Majesty the King of Prussia; being persuaded that his Government will do itself the honor of participating in those sentiments of humanity which have dictated that preference.

The term "high," applied to the contracting parties, is not found in the articles copied from the ancient treaty. It is proposed to erase it from the new articles, not only for the sake of uniformity, but because the United States, having declined the adoption of any title of distinction, have never applied this epithet in any of their treaties.

In the thirteenth article, the terms "heretofore called" do not appear to apply appropriately to the articles of contraband; since the article itself contains a list of what is contraband. On that account it is proposed to expunge them.

In the fourteenth article, it is wished to add, that the charter-party, or bill of lading, as well as the muster-roll, shall be accompanied by the certificates of the public officers who are accustomed to issue them, in order to give to these papers a degree of authenticity, without which no documents would be entitled to credit, even in the private transactions of individuals. The undersigned believes that these documents are in use within the Prussian dominions, and that their Excellencies have intended to comprise them within the words "bills of lading," and "muster-roll." But as these certificates are not an essential part of these papers, and as these papers themselves are only necessary in a time of maritime war, it would perhaps be better to name them expressly. Another consideration appears to render these certificates necessary; the bills of lading, on board of American vessels, very frequently designate only the bales and boxes, with their marks and num-

bers, without specifying their contents, as is required of Prussian navigators by the laws of this country.

The project of the undersigned has slightly varied the clause which gives to the navigators a delay of three months, in order to procure the documents necessary in time of war. It only exacts these documents from vessels which shall have sailed from the ports of the neutral Power more than three months after the neutral Government has knowledge of the war; because, on the one hand, the vessel may be at sea more than three months after a declaration of war, without possessing these documents, if it shall have sailed from a neutral port before, or a little after this declaration; and, on the other, the intention of the contracting parties is not to exempt neutral vessels from the production of every document that can prove their neutrality; (an exemption which the enemies of the belligerent party may abuse, by demanding it without right,) but to allow the vessels necessarily unprovided with these specified documents every other reasonable and equivalent proof.

In the fifteenth article it may be proper to omit the stipulation that ships of war shall not approach neutral vessels within cannon shot. Although this engagement is frequently to be found among modern treaties, it has been seldom or never observed. It would be always difficult, and sometimes impossible, to observe. In tempestuous weather a boat could be rarely sent the distance which would be necessary, if the vessel should remain out of cannon's reach. In moderate weather, the two vessels must stop while a boat is passing between them, and this would occasion a useless waste of time, both to the neutral and belligerent vessels; besides, in binding one's self by this stipulation towards a neutral, an obligation is also created in favor of an enemy, since nothing is more usual with belligerent vessels than attempts to escape an enemy under the mask of a neutral flag. But, if this clause were observed, an armed ship would be arrested in the pursuit of every vessel that could raise a neutral flag; and, if a pretended neutral were at liberty to remain out of the reach of cannon while a boat could be sent for the examination of papers, facilities would be given to fraud.

In the same article, the words "passports and documents" seem more proper than "sea-letters and passports," which have been borrowed from the ancient treaty, which does not require the documents designated in the new one.

In the sixteenth article, to avoid the possible construction that the ships of one of the parties in the ports of the other might be subjected to an embargo, for the purpose of being employed on some special occasion, it is proposed to substitute for the words "public or private" the word "whatsoever."

To the nineteenth article a clause has been added, to make it conform to the subsisting treaties between the United States and Great Britain, to which the undersigned referred in his note to their Excellencies, dated the 11th July of the last year.

Relations with Prussia.

In submitting these remarks to the consideration of their Excellencies, he has only to add, that, whenever they shall have decided whether it will be their pleasure to sign the treaty in the two languages, he will cause two copies of the original to be prepared in English, that he may be ready, at the time it may suit their convenience, to proceed to the exchange of the full powers and to the signature.

JOHN Q. ADAMS.

To the MINISTERS OF STATE, &c.

No. 147.

Extract of a letter from John Quincy Adams, Minister, &c. at Berlin, to the Secretary of State, dated

"MAY 10, 1799.

"I received a few days since a note from the Cabinet Ministers, with a new project for a treaty, in which they have complied with all the alterations I had proposed in my last note, excepting in one particular, and for that they offer an expedient, which, I think, will answer perfectly well the purpose. I have therefore replied, and sent them a draught in our language entirely conformable to their plan; so that, at present, we are fully agreed upon the tenor of the treaty, the several copies of which only remain to be drawn up and signed, which I hope will be done in the course of a month."

The Prussian Ministers to Mr. Adams.

BERLIN, April 30, 1799.

In the reply we have now to make to the note of Mr. Adams, Minister Plenipotentiary of the United States, dated the 16th of March, but few observations will be necessary.

The greater part of the alterations which he has recently suggested present no essential difficulty. We have, therefore, unhesitatingly adopted them, in conformity with his desire. The only exception is in the fourteenth article, in which he proposes to stipulate "that, in times of war, the charter-parties, bills of lading, and lists of the ship's company, shall be issued by the magistrates or public officers of the place from whence the ship shall have sailed." We are informed, from the statements with which we have been furnished on this subject, that, in some of our provinces, the practice has prevailed for a long time, to issue the above named sea-papers judicially; but that, in others, our merchants and owners of vessels are content with making their contracts before a notary or a commissary of justice, and sometimes even under a private seal; and they are, in this respect, the more enabled to follow the established usages and consult their own convenience, inasmuch as there is no law enacted by the Sovereign, or recognised by the maritime tribunals, which has required of them more rigorous formalities. It is not, therefore, within our competency to impose on the subjects of the King a new restraint, which would conflict with their rights and privileges; and the nearest approximation which we can make to the views of Mr. Adams is, to add to

6th Con.—40

the fourteenth article "that the documents shall always be issued in the form established at the place from whence the ship shall have sailed." He will be the first to acknowledge that it is not in our power to go beyond this; and, in justification of our decision, we rely upon that equity of which he has given, in the course of the negotiation, so many satisfactory proofs.

All the residue of the treaty is in conformity with his desires; and we can anticipate no objection to the second project we herewith communicate. We pray him, however, to collate once more the English translation, herewith also transmitted, and to change the latter, in the passage redrawn in the 14th article, according to the alteration in the French text.

Perhaps, also, it will be necessary to retrench the last period of the same article, as well as the 7th, 19th, and 21st articles, to assimilate them still more to the expressions and phraseology which we have adopted in the original.

After Mr. Adams shall have had the goodness to return these two copies, we will not delay the conclusion of the treaty in duplicates, each in the two languages; and nothing will afterwards prevent our proceeding with him to the signature.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

Mr. ADAMS, Minister, &c., of the U. S.

Mr. Adams to the Ministers of Prussia.

BERLIN, May 4, 1799.

The Minister Plenipotentiary of the United States of America has the honor to return to their Excellencies the new project of the treaty which they have been pleased to transmit to him, with the copy in English, which has been made to conform to it throughout.

In adopting, without hesitation, all the changes which their Excellencies have thought necessary, as well in relation to the papers stipulated by the 14th article, as to the phraseology of the 17th, 19th, and 21st articles, he will confine himself to the single remark that, in his project, in order to designate the modification at the close of the 19th article, he has used the precise expressions of the treaty between the United States and Great Britain; and as it is the extent of the engagement formed by a previous treaty, which ought to serve as the measure of its actual modification, he understands that the change of phraseology, in this article, will occasion no difference in its meaning.

He will be ready to sign the treaty as soon as the copies shall be prepared, and at whatever moment their Excellencies may signify their wishes.

JOHN Q. ADAMS.

No. 150.

BERLIN, July 13, 1799.

SIR: I have the honor to send with this the two originals, in the French language and our own, of the Treaty of Amity and Commerce between His Majesty the King of Prussia, and the

Relations with Tunis.

United States, signed on the 11th instant. I am, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

TUNIS.

[Communicated to the Senate, December 13, 1799.]

Gentlemen of the Senate:

In conformity with your recommendation, expressed in your resolution of March 6, 1798, I have entered into a friendly negotiation with the Bey and Government of Tunis on the subject of the fourteenth article of the Treaty of Peace and Friendship between the United States and that Power. The result of that negotiation I now lay before the Senate, for their consideration.

JOHN ADAMS.

UNITED STATES, Dec. 13, 1799.

Extract from the instructions of Richard O'Brien, William Eaton, and James Leander Cathcart, appointed to negotiate alterations of the Treaty with Tunis.

By the powers herewith delivered to you, from the President of the United States of America, you are authorized to confer, negotiate, and conclude, with the Bey and Regency of Tunis, on the alterations to be made in the treaty between the United States and that Power, as arranged in the month of August, 1797, by the agency of Joseph Etienne Famin, who was employed by Joel Barlow, Esq., Agent and Consul General of the United States at Algiers.

The important object of discussion arises out of the fourteenth article of that treaty, of which the following is a translation:

"ARTICLE 14. The citizens of the United States of America who shall transport into the Kingdom of Tunis the merchandise of their country, in the vessels of their nation, shall pay three per cent. duty. Such as may be laden by such citizens, under a foreign flag, coming from the United States or elsewhere, shall pay ten per cent. duty. Such as may be laden by foreigners on board of American vessels, coming from any place whatever, shall also pay ten per cent. duty. If any Tunisian merchant wishes to carry merchandise of his country, under any flag whatever, into the United States of America, and on his own account, he shall pay three per cent. duty."

This article is subversive of our great revenue system: it is, besides, without reciprocity. It cannot be important to the Bey and Regency, though ruinous to us.

The revenues of the United States arise chiefly from duties on goods imported. These duties generally exceed ten per cent. They are imposed on our own merchants, and increased on the merchants of foreign nations. Our treaties with those nations stipulate that no higher duties shall be paid by their subjects than by those of the most favored nation. Consequently, if this article in the treaty with Tunis should be ratified by the

American Government, the duties on all the goods imported into the United States by the subjects of those foreign nations must be reduced to three per cent. This would necessarily involve the reduction of the duties on goods imported in our own vessels, or our whole navigation would sink under the unequal burden. This sacrifice, then, it is impossible to make. We should thereby deprive ourselves of the means of supporting our own Government, of paying our public debts, and even of fulfilling our engagement with the Bey and other Barbary Powers. While no advantage would arise to the Bey and his *proper subjects*, probably a few European and Jewish merchants, settled at Tunis, would alone be benefited.

For these reasons, the President cannot apprehend any difficulty in your obtaining the Bey's consent to abolish the fourteenth article before mentioned. In its place may be substituted a stipulation that the commerce of the United States with Tunis, and of Tunis with the United States, should be on the footing of the commerce of the most favored nations, for the time being, respectively. At all events, the fourteenth article must be rejected, if war should be the consequence.

This evil, however, by every soothing and persuasive measure, you will endeavor to prevent. Should, it nevertheless, be insisted on, it will evidently be for the purpose of extorting further stipulations for the delivery of money or stores; but the demand must be resisted. As the article is destitute of any reasonable foundation, without a precedent in any treaty with any other Barbary Power, and strikingly wanting reciprocity, a submission to it would be dishonorable to the United States. If, to prevent a war, anything should be added to the very burdensome contract already made, that addition should not have any reference to the fourteenth article, but be stipulated at large, on the conclusion of the new article or articles which you may negotiate.

The Senate have revised the ratification of the treaty, with the exception of the fourteenth article alone; but the eleventh and twelfth articles are objectionable. In firing salutes in the ports of the two Powers reciprocally, to return gun for gun will be proper; but, as the Tunisian vessels of war would probably never enter the ports of the United States, while the vessels of war of the latter were likely often to enter the ports of Tunis, to stipulate for the donation of a barrel of powder for every gun which shall be required for the salute, was to authorize the levying of a contribution in a way not very honorable on either side. It will, therefore, be desirable to expunge this stipulation, and to confine this article to mutual salutes, gun for gun; and it will be very well to limit the number to *fifteen*, the federal salute. The twentieth article of the treaty with Algiers requires a mutual salute of twenty-one guns; and, if there be any motive to induce the Bey of Tunis to require a salute of more than fifteen guns, the number may be increased to *twenty-one*. If, nevertheless, the Bey should persist in claiming a barrel of powder for every gun fired in his ports, for a salute to a vessel of war of the United States, then it

The Sinking Fund.

will be of more consequence to limit the number of guns to at least fifteen, and at most to twenty-one.

In the twelfth article it is stipulated that "the subjects or citizens of the two nations shall be protected by the government or commandants of the places where they may be, and not by the other authorities of the country." This is not very intelligible: possibly it may mean that the officers on the spot shall furnish such protection, without obliging the citizens of the United States in the Tunisian dominions, or the subjects of Tunis in the United States, to seek it at a distance, if the seat of Government be distant; but, if such protection be withheld by subordinate officers, the persons needing protection ought not to be forbidden to resort for justice to the chief authority in each nation. But the clause most objectionable in this article is that which permits the *Government of Tunis* to compel an American captain to put his vessel into its service at such freight as the *Government itself* shall prescribe. This will put it into the power of any merchant resident at Tunis, who has the ear of the Bey or of one of his chief officers, to command the service of American vessels for compensations wholly inadequate and unreasonable. The fourteenth article of the treaty with Algiers is proper and honorable: "Should the Dey want to freight any American vessel in the Regency or Turkey, *said vessel not being engaged*, in consequence of the friendship subsisting between the two nations, he expects to have the preference given him, *on his paying the same freight offered by any other nation.*"

The three articles in question may be changed into the following forms:

"ARTICLE 11. When a vessel of war of one of the parties shall enter a port of the other in which there is a fortification, he shall be saluted with fifteen guns, which salute the vessel of war shall return, gun for gun."

ARTICLE 12. The first part may stand as it is as far as the words (in the English translation,) "which may extend to merchant vessels, but not to those of war;" after which the article may be thus continued: "The subjects and citizens of the two nations, respectively, shall be protected, in the places where they may be, by the officers of the Government there existing; but, on failure of such protection, and for redress of every injury, the party may resort to the chief authority in each country, by whom adequate protection and complete justice shall be rendered."

"In case the Government of Tunis shall have need of an American vessel for its service, such vessel being within the Regency, [and not previously engaged,] the Government shall have the preference, on its paying the same freight as the Tunisian merchants usually pay for the same service, or at the like rate, if the service be without a customary precedent." The words, in brackets, [and not previously engaged] if objected to, may be omitted.

"ARTICLE 14. All vessels belonging to the citizens and inhabitants of the United States shall be permitted to enter the different ports of the king-

dom of Tunis, and freely trade with the subjects and inhabitants thereof, on paying the usual duties that are paid by all other nations at peace with the Regency. In like manner, all vessels belonging to the subjects and inhabitants of the kingdom of Tunis shall be permitted to enter the different ports of the United States, and freely trade with the citizens and inhabitants thereof, on paying the usual duties that are paid by all other nations at peace with the United States."

Or, if preferred, the fourteenth article may be in the following form:

"The commerce of the citizens and inhabitants of the United States with the kingdom of Tunis, and of the subjects and inhabitants of the kingdom of Tunis with the United States, shall be on the footing of the most favored nations, for the time being, respectively."

Some such form is indispensable: it is impossible to place the commerce of the Tunisian subjects on a better footing than that of the most favored nation; and there must be an exact reciprocity in the stipulation.

A copy of the act of the Senate on this subject is annexed. By that you will see that an alteration in the fourteenth article only is essential; but you will aim at the proposed alterations in the eleventh and twelfth articles.

SINKING FUND.

[Communicated to the Senate, December 11, 1799.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows: That the measures which have been authorized by the Board, subsequent to their report of the 15th of December, 1798, so far as the same has been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 10th of December, 1799, and in the proceedings of the officers of the Treasury therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

SAMUEL LIVERMORE,

President of the Senate, pro tem.

DECEMBER 11, 1799.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund: That no purchases of the public debt of the United States have been made, since the date of the last report to Congress, on the 15th day of December, 1798; and that the sums of capital stock heretofore purchased and transferred, prior to the present year, in trust for the United States, the interest whereon is appropriated by law towards the reduction of the public debt, amount to two millions seven hundred and thirty-four thousand four hundred and seventy-nine dollars and forty-four cents, as will more particularly appear from the document hereto annexed, marked A.

That the following sums have been applied towards the discharge of the principal debt of the

Mint of the United States.

United States, since the date of the last report to Congress, of the 15th of December, 1798:

1. To the fourth instalment of the six per cent. stock, bearing a present interest, which, pursuant to the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed on the 3d day of March, 1795, and the act in addition thereto, passed on the 28th day of April, 1796, became payable on the first day of January, 1799, the sum of - - \$674,938 02
2. To the payment of the seventh instalment of the subscription loan for bank stock, due on the first day of December, 1798, - - 200,000 00
3. To the payment of the second instalment of a loan of one million of guilders, obtained in Holland, and which fell due the present year, pursuant to a contract, dated the 1st of June, 1787, estimated at 40 cents per guilder, - 80,000 00
4. To the payment of the first instalment of a loan of one million of guilders, obtained in Holland, and which fell due in the present year, pursuant to a contract, dated the 13th of March, 1788, estimated at 40 cents per guilder - - 80,000 00

Amounting in the whole to - \$1,034,938 02

The payments before enumerated have been made out of the following funds:

1. The interest on the sums which accrued upon the stock purchased, and vested in the Commissioners of the Sinking Fund, in trust for the United States, as particularly stated in the document hereto annexed, marked B, \$89,375 72
2. The fund arising from the payment of debts, which originated prior to the present Constitution of the United States, as particularly stated in the document marked C, - - - 6,710 68
3. The fund arising from the sales of lands in the Northwestern Territory, as particularly stated in the document hereto annexed, marked D, - - - 11,963 11
4. The fund arising from dividends on the capital stock belonging to the United States, in the Bank of the United States, from the 3d of March, 1795, to the 30th of June, 1798, after deducting the interest paid on the subscription loan for the same period, as particularly stated in the document hereto annexed, marked E, - - - 144,889 08
5. The fund arising from a loan obtained of the Bank of the United States, pursuant to the 6th section of the act passed on the 3d of March, 1795, entitled "An act

making further provision for the support of public credit, and for the redemption of the public debt," and agreeably to a resolution of the Board of Commissioners of the Sinking Fund, of the 15th December, 1798, approved by the President of the United States, 200,000 00

6. The proceeds of the duties on goods, wares, and merchandise, imported; on the tonnage of ships or vessels, and on spirits distilled within the United States, and stills, appropriated by the 8th section of the act of March 3, 1795, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," being for the period, and in reference to the objects, mentioned in this report, 581,999 43

\$1,034,938 02

Making in the whole an equal amount to the reimbursement before mentioned.

There remained in the hands of the Treasurer of the United States, as agent of the Board of stant, the sum of five hundred thousand seven hundred and eighteen dollars and fifty-five cents, which, with the growing produce of other appropriated funds, will be sufficient for the reimbursement, at the close of the present year, of the fifth instalment of the six per cent. stock, bearing a present interest, and the eighth instalment of the subscription loan for stock of the Bank of the United States, which reimbursements are required to be made by the 11th section of the act of Congress, passed on the 3d of March, 1795, hereinbefore mentioned.

All which is most respectfully submitted, by
OLIVER WOLCOTT,

Secretary of the Treasury.

TREASURY DEPARTMENT, Dec. 10, 1799.

[The tables of details are omitted.]

THE MINT.

[Communicated to Congress, January 8, 1800.]

To the President of the United States:

The Director of the Mint respectfully reports, that there has been coined and issued from the Mint, from the first day of January, to the thirty-first day of December, 1799, inclusive, the quantity of 213,285 dollars, in gold coin; 423,515 dollars, in silver coin; and 9,106 dollars and 68 cents, in copper cents; amounting to 645,906 dollars and 68 cents, or 1,365,681 pieces of coin; which, added to the former returns, makes the whole of the coinage, since the establishment of the Mint, 696,530 dollars in gold, 1,210,158 dollars and 75 cents in silver, and 50,111 dollars and 42 cents in copper

Mint of the United States.

cents; making the amount of the whole coinage of the Mint, 1,962,800 dollars and 17 cents; all which will more fully appear by the enclosed returns from the Treasurer of the Mint; as also, that the coinage of the last year has exceeded that of any former year, by 100,208 dollars 68 cents.

It is almost needless to observe, that the 50,000 dollars in copper coin, required by the second section of the act of Congress, passed on the 8th of May, 1792, being now completed, it becomes necessary for the Treasurer of the United States to comply with the provision of the said section, by giving the public notice therein mentioned.

The Mint has been regularly supplied with bullion, both gold and silver, so as to keep it in constant operation, on the present establishment, during the year past, excepting two months, in which the works were totally stopped, on account of the then prevailing fever; and there is a rational prospect that the supply will be continued for the present year.

From the late arrangements with regard to supplies of copper planchettes, for the coinage of cents, there is no doubt but that one press, equal to the coining of 1,400 per day, may be kept in constant operation.

It becomes necessary for the Director to draw the attention of the President to the act of Congress for the establishment of the temporary and permanent seat of the Government of the United States. By the original institution of the Mint, it was established at the seat of Government. By the sixth section of the act of Congress, above referred to, it is enacted "that all offices attached to the seat of Government, shall be removed to the permanent seat of the Government of the United States, by their respective holders, on the 1st day of December next." A question has arisen under this act, whether the Department of the Mint is included therein or not. If it is, without further provision by law, the Mint must be removed, with the other Departments, agreeably to the directions of that act; and if it is not, many necessary provisions must be made by law, applicable to the Mint being carried on at a distance from the seat of Government. The doubtful consequences of a removal must strike every person acquainted with the business of the Mint, as it is in a great measure supported by the bullion passing through the different banks of this city, and for want of which, it would frequently be without the means of coinage, while the expense would be nearly the same to the Government. The Director, therefore, thinks it is his duty respectfully to submit to the President the propriety of bringing this subject before Congress, in the early part of the session; this step is rendered more obviously necessary, from the present state of the machinery of the Mint. The works ought to be kept in perfect repair, unless they are so soon to be removed; in which case some parts, not worth the transportation to so great a distance, might be suffered to remain as they are, or barely kept in such repair as to answer for immediate use.

The Director is sorry to observe, that the practice of melting down the coin of the United States,

by workmen in gold and silver, is, he fears, becoming too common, to the manifest loss of the United States. As there are not any laws prohibiting it, every one is left to his own discretion, which, from the certainty of the standard, becomes so great a convenience, if not a pecuniary advantage, as to render the prevalence of the practice almost beyond a doubt, if not prohibited by law.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, *Director.*

January 1st, 1800.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

A statement of the denomination and value of gold coins issued from the Mint of the United States, from the 1st of January to the 31st of December, 1799, inclusive, viz:

17,483 eagles	-	-	\$174,830 00
7,451 half-eagles	-	-	37,255 00
480 quarter-eagles	-	-	1,200 00

\$213,285 00

BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

A statement of the denomination and value of silver coins issued from the Mint of the United States, from the 1st of January to the 31st of December, 1799, inclusive, viz:

423,515 dollars	-	-	\$423,515 00
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BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

A statement of the denomination and value of copper, coined at the Mint of the United States, from the 1st of January, to the 31st of December, 1799, inclusive, viz:

904,585 cents	-	-	\$9,045 85
12,167 half-cents	-	-	60 83

\$9,106 68

BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

MINT OF THE UNITED STATES,

Treasurer's Office, Jan. 1st, 1800.

I certify there has been coined at the Mint of the United States, from the commencement of the establishment, to the date hereof, as follows, viz:

Gold	-	-	-	\$696,530 00
Silver	-	-	-	1,216,158 75
Copper	-	-	-	50,111 42

\$1,962,800 17

BENJAMIN RUSH.

The DIRECTOR OF THE MINT.

*Mint of the United States.**

[Communicated to the Senate, March 14, 1800.]

Mr. HILLHOUSE, from the Committee to whom was referred the Message of the President of the United States, of the 8th day of January, 1800, together with the Report of the Director of the Mint, of the first of January last, made the following report:

That the existing law requires the removal of the Mint to the permanent seat of Government; that such removal would, in many respects, be inconvenient; but the policy of keeping up that establishment, in a situation where its operations will not be under the immediate superintendency and direction of the principal officers of Government, is questionable.

It appears by official reports, that, on the 31st of December, 1799, there had been coined and issued from the Mint, since its first establishment, in gold, \$696,530; in silver, \$1,216,158 75; and in copper, \$50,111 42; amounting, in the whole, to \$1,962,800 17. That the expense, during the same period, has been \$213,336 02, of which sum there has been reimbursed by the payment of cents and half cents into the Treasury, \$48,041 42; leaving a balance of \$175,254 60; an expense, in the opinion of the committee, disproportionate to the advantage which has been derived from a circulation of the coins of the United States, which have been very limited, and mostly confined to places in the vicinity of the Mint.

To furnish coin sufficient for a circulating medium throughout the United States would be impracticable, unless the powers of the Mint should be greatly increased, and the practice of melting down the coin, and the exportation to foreign countries, prevented; which may be done by debasing the coin—a measure which the committee cannot recommend.

The providing a fixed and permanent standard, by which the value of property, contracts for money, and foreign coins, shall be regulated, is an object of great importance. This may be effectually done without the aid of a permanent Mint establishment: for it is not an indispensable requisite, that the whole circulating medium should be of the coins of the United States. Wholly to exclude foreign coins from circulation, if not impracticable, would be attended with great inconvenience, especially in the extreme parts of the Union.

The banks afford the most effectual guard against the circulation of base coin; a regard to their own interest will induce caution, and such coin will not be there received for more than its intrinsic value; which will fix the rate at which it will have a currency. An authority might be, by law, vested in the bank, for ascertaining the intrinsic value of coins of a new impression, by assaying them at the expense of the United States: for these purposes the present Mint establishment cannot be necessary.

Causes, in their nature temporary, have hitherto furnished a great proportion of the bullion which has been coined at the Mint, and the committee do not discover any mode which can in future be relied on, for furnishing a regular and certain sup-

ply, but that of prohibiting the circulation of foreign coins, and converting them into bullion, which seems to have been the mode contemplated. In addition to the inconvenience attending this measure, the committee are strongly impressed with an apprehension, that it will be ineffectual, unless the transporting bullion to the Mint, and the replacing the value in coin, is to be at the risk and expense of the United States: for the difference in value between bullion and coin will be so small, that no individual would be induced to take upon himself the risk and expense: and the vast extent of the territory of the United States, the foreign commerce which is carried on from the various ports, almost wholly disconnected from, and independent of each other, and there being no place where the trade of this country is, or can be concentrated, will always make that risk and expense an object of no small importance.

The furnishing a supply of cents and half cents sufficient for circulation, would, in the opinion of the committee, be a desirable object, but they are well satisfied that the Mint, upon its present establishment, will not furnish such supply. The efforts of almost seven years have done very little towards it. Perhaps a more economical, and the most effectual, mode would be by contract.

Though the coining of gold and silver may, at times, be deemed expedient, there will still remain a doubt as to the propriety of keeping up the present Mint establishment: and the committee have no hesitation in declaring it as their opinion that a plan may be devised, which will be more eligible, and better comport with economy, and the interest of the United States, for securing every object of importance in relation to a national coin.

As the removal of the Mint must be attended with expense, and probably a derangement of many of the officers, if a change of the system is to take place, the present is beyond a doubt the most convenient time for effecting it.

The committee, therefore, recommend the following resolutions:

Resolved, That a committee be appointed to bring in a bill for repealing, the first section of the act, entitled "An act establishing a Mint, and regulating the coins of the United States," and such other sections, and parts of sections, of said act, and other acts, as relate to the establishment of a Mint, and to provide for taking care of the materials and property appertaining to the Mint, and which belong to the United States.

Resolved, That the Secretary of the Treasury be directed to report a plan for furnishing the United States with cents and half cents, and such other coins as shall be deemed necessary or expedient.

A general statement of the expense of the Mint establishment, from its institution to the 31st of December, 1799.

Incidental and contingent expenses and repairs of the Mint, including purchase of ground and buildings thereon, in Seventh street, Philadelphia:

Additional Revenues.

From the institution of the Mint to the 31st December, 1797	-	-	\$73,773 96
From 1st January to 31st December, 1798	-	-	10,836 57
			<u>\$84,610 53</u>

Copper purchased for coinage.

From the institution of the Mint to the 31st December, 1797,	135,498½ lbs.	-	34,427 48
From 1st January to 1st December, 1798, 22,829 lbs.	-	-	7,110 22
			<u>41,537 70</u>

Salaries of the officers.

From the institution of the Mint the 31st December, 1797	46,494 15
From 1st Jan. to 31st Dec., 1798	10,600 00
Do. Do., 1799	10,600 00
	<u>67,694 15</u>

Wastage in the coinage of silver.

For this sum, applied to make good the wastage, as settled at the Treasury	-	2,820 71
Amount of warrants drawn on the Treasurer of the United States, for the Mint establishment, including purchase of copper for coinage, in the year 1799, and exclusive of the salaries of the officers, the account of the expenditure thereof not finally settled	-	- 16,672 93
		<u>213,336 02</u>

The payments of cents and half cents into the Treasury, from the institution of the Mint to the 31st December, 1799, have been	-	-	<u>\$48,041 42</u>
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JOSEPH NOURSE, *Register.*TREASURY DEPARTMENT,
Register's Office, February 20, 1800.

ADDITIONAL REVENUES.

[Communicated to the House of Reps., April 30, 1800.]

Mr. HARPER made the following report: The Committee of Ways and Means having, in a former report, wherein they recommended a loan of three millions and a half for the service of the present year, adverted to the propriety of providing permanent revenues, equal to the interest of the debt to be incurred, and to the gradual and timely extinguishment of the principal, now beg leave to call the attention of the House again to that important subject; on which they submit the following report:

The first point which presented itself for the consideration of the committee, in examining this subject, was "the amount for which it would be proper to establish additional revenue at this time." This must depend on the present and future increase of permanent expenditure, compared with the probable amount of permanent revenue from existing taxes.

When Congress, in the year 1798, was compelled, by the continued aggressions of a foreign Power, to commence active and extensive preparations

for defence, by sea and land, the ordinary expenditure of the Government, including the interest of the public debt, the payment on account of the principal, and an adequate allowance for occasional grants and incidental expenses, was something less than seven millions of dollars. No increase, of any consequence, has been made in this expenditure, since that time, except what was occasioned by the interest of the debt, which the measures necessary for the defence of the country forced Congress to contract. As this debt amounts to five millions, at eight per cent., the increase, on that account is \$400,000.

The continuation of those measures, for some time longer, having rendered it necessary, in the opinion of the House, to contract a further debt of three millions and a half, for the present year, that measure, if ultimately adopted, and carried into effect on the same terms with the former, which may perhaps be found unavoidable, will induce a further increase of \$280,000 in the ordinary expenditure of the Government, making, in the whole, an increase of \$680,000 for the interest of new loans.

It is known that, at the beginning of next year, a further addition of about \$1,200,000 must be made to the ordinary expenditure, for the interest and extinguishing annuity of the deferred debt: and that, in 1802, the payments on the foreign debt will be larger, by one million, than in the present year. In 1803 and 1804 those payments will be increased to two millions beyond their present amount; but, after that period, they will gradually diminish, and, in 1809, they will finally cease, by the extinguishment of the debt.

The committee, however, though they have thought it useful to extend their view to this more remote increase of expenditure, are of opinion that it is not necessary for Congress to make provision, now, on that subject. No part of this increase will take place till two years hence; and before that period arrives, Congress will have a better view of the political and financial situation of the country than at present, and will be better able to judge respecting the means of meeting the exigency. But yet, the certainty of this future increase proves the necessity of providing, as far as can be conveniently done, for that which has already taken place, or must soon happen; so that the burden may be divided between different periods, and as little as possible may be left to be done hereafter.

Neither do the committee think it necessary to make provision, during the present session, for the deferred debt. The political situation of the country is now far more uncertain, than, in all probability, it will be at the next meeting of Congress. Should it change for the better, as there is reason to hope, the augmentations now to be made, together with the increase of revenue which we may reasonably expect, from our present system, may be sufficient, with some small aids, for defraying this additional expense. If, on the contrary, our situation should remain the same, still we shall have more experience than we now possess of the operation of our present system, and of the effect

Additional Revenues.

of the war on our commerce and our revenue. The preparatory arrangements, moreover, for an amelioration and enlargement of our system, will then be completed, or in a much more advanced state than at present. We shall, consequently, be then in a better situation than we now are for judging whether a further augmentation will be necessary, to what extent it must be carried, and how it may best be made.

It is only for the interest of the loans of the present and last years, therefore, and for a sum equal to the reimbursement of the principal, within a convenient time, that the committee would propose to make provision, during the present session of Congress.

That interest, at the highest calculation, will amount to \$680,000. It is known that an extinguishing annuity, or a sinking fund, equal to two per cent. on the principal of a debt, will, if steadily applied, extinguish it in about twenty-four years. This is the plan heretofore adopted by Congress for the extinguishment of the six per cent. stock; and the committee conceive that it may be safely adhered to, in all arrangements for a similar purpose: it appearing certain that, while adequate provision is made for the punctual discharge, within so short a period, of every new engagement, there can be but little reason to apprehend a dangerous or inconvenient accumulation of debt.

This annuity of two per cent. on the loans of the last and present years, admitting the latter to be fixed at \$3,500,000, will amount to \$170,000; and, added to the amount of interest, will produce an aggregate expenditure of \$850,000, annually, for twenty-four years. As this annuity, however, by the terms of the former loan, which are likely to be found necessary in the present, also, cannot, until the end of ten years, be applied to the discharge of this particular debt, it must be employed, should Congress think fit to raise it, in the purchase of the public debt in general, by way of sinking fund. The committee are of opinion that every consideration of sound policy, and the best established principles of financial economy, are in favor of raising it.

At the period above referred to, the Summer of 1798, the Government possessed a revenue of something more than eight millions of dollars, derived from the duties on imports and tonnage; the tax on domestic distilled spirits and stills, on retailers licenses, on refined sugar, on carriages, and on sales at auction; the postage of letters; dividends of bank stock belonging to the United States; and some other less considerable branches of revenue. As the ordinary expenditure, at that time, was less than seven millions, there was a balance of a million and upwards in favor of the Treasury.

Had the revenue continued equally productive in the subsequent year, 1799, there would have been no need of further provision at this time; since the above mentioned balance would have been more than sufficient to cover the increase of permanent expenditure. But this was not the case. The duties on imports and tonnage, which,

in 1798, produced \$7,405,420, fell, in 1799, to \$6,437,886—a diminution of very nearly one million; and although the stamp duties, and perhaps the other branches of the internal revenue, were more productive in that year than in the former, yet that increase, amounting to only \$200,000, was far from sufficient to counterbalance the diminution in the imports and tonnage.

It is not, however, to be apprehended, in the opinion of the committee, that the diminution in question will be permanent. On the contrary, they suppose it to have resulted from two causes, of a temporary nature: first, the extensive depredations on our commerce, which took place in 1796, 1797, and 1798, especially the two former, the full effect whereof was not felt in the revenue, till 1799, because it was in that year that the duties on the imports of 1798 became payable; and secondly, the great re-exportation of foreign commodities in 1799, which amounted to \$45,523,335, exceeding, by \$12,000,000, those of any former year, and which drew from the Treasury very great sums in drawbacks. As this branch of the revenue is bottomed on the consumption of the country, which, notwithstanding occasional fluctuations, has a constant progressive increase with the increase of population and wealth, the committee conceive that it may be expected soon to regain its former level, and gradually to augment. In proof of which they remark, that the first quarter of the present revenue year, the returns of which are before the House, exceeds in product the first quarter of the last year, or of 1797, and very nearly equals that of 1798.

This event, however, though highly probable, as it seems to them, being still uncertain, and the revenue, in its present state, being unequal to the increased scale of expenditure, resulting from the interest of this and the last year's loans, and to a reasonable provision for deficiencies, and for the extinguishment of the principal; the committee conceive it proper, and even indispensable, to provide, at present, for the additional sum of \$850,000, at the least. More, they think, will not now be necessary.

Having come to this conclusion, as to the amount of the sum which it would be expedient to provide for at this time, they next turned their attention to the ways and means of making the provision.

As the official situation of the Secretary of the Treasury gives him more exact and extensive information, on the subject of revenue, than any other person can be supposed to possess, and enables him to form the most correct opinions respecting the probable operation, and comparative merits, of different schemes of taxation, the committee thought it proper to address their inquiries, in the first instance, to him, and wait for the result of his deliberations, before they should decide. For this purpose was written the letter, of which a copy, No. 1, is subjoined to this report.

In his answer, which, together with the statements therein referred to, No. 2, is also hereto annexed, the Secretary proposes to augment the duties on several kinds of wine; to raise those arti-

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cles which now pay a duty of ten per centum ad valorem, to $12\frac{1}{2}$ per centum; and to make a new arrangement respecting drawbacks on goods re-exported, the effect of which would be, to impose a tax from about 15 to 18 per centum of their whole amount, on the drawbacks now allowed. This effect would be produced, by refusing, altogether, the drawback on certain articles, which are enumerated in the paper C, accompanying the Secretary's letter, and by withholding a greater or less part of it on a variety of other articles, in the manner stated in the paper B, referred to in the same letter.

The Secretary has informed the committee that he expects, from these three measures, should they be adopted, an addition to the revenue of about \$900,000 annually. But he has not stated what part of this addition he expects from each measure separately. The two first he proposes to make perpetual. The third, the tax on drawbacks, he would continue no longer than during the present war in Europe.

When they proceeded to the examination of this plan, they found no difficulty as to that part of it which relates to the augmentation of duties.

Wines, indeed, are now highly taxed; but, being a mere luxury, which is consumed solely by people in affluent or easy circumstances, they appear to be a very proper object of revenue; and it is not apprehended that a moderate increase of the duty would diminish the consumption, or endanger smuggling. This reasoning, as the committee conceive, will be confirmed by a statement of the amount of duties on wines, which is annexed to this report, (No. 3,) and from which it appears that, from 1794 to 1797, inclusive, the net product of those duties has increased from \$457,308 to \$524,135, although no additional duty has been laid during that period. The returns for 1798 are too incomplete to be taken into the calculation. During the latter part of that period, indeed, there has been a fall in this product, as that of many other branches of the revenue; but it appears from the average, that this fall is more than counterbalanced by the rise in the former part, and the committee conceive that such fluctuations, arising from accidental and transient causes, are always to be expected, and that the average of a number of years can alone afford a safe criterion whereby to judge on subjects of this kind.

It is, moreover, to be observed, that the duties on wines have, hitherto, been injudiciously laid, so as to produce a strong temptation to enter high priced wines, which pay a very high duty, under the names of those of a low price, whereon the duty is comparatively low. There is reason to believe, as the committee are informed by the Secretary of the Treasury, that much loss to the revenue has already been experienced from this cause. The plan contained in his new tariff, the paper B, proposes to remove this cause, by a different adjustment of the duties in question.

As the average product of the duties on wines appears, by the statement No. 3, to be upwards of \$600,000, an addition of twenty per cent. on the amount of the present duty would produce \$120,-

000. This addition, it is conceived, might be safely made, in the manner proposed by the Secretary of the Treasury.

As to the articles paying a duty of ten per cent. ad valorem, which are very numerous, and of great value, including all woollen goods, white cottons, and nankeens, with other articles of less importance, the committee are of opinion, with the Secretary of the Treasury, that an additional duty of two and a half per centum on the value of the article may be safely laid on them. The present duties on all articles paying a rate per centum, ad valorem, of which the ten per cent. constitute a great proportion, probably two-thirds, were fixed in 1792, except a few, which were raised from 10 to $12\frac{1}{2}$ per cent. in 1797; and they produced their full effect in 1793: from the end of which latter year, until the end of 1798, the net product of those duties rose from \$2,319,817 to \$2,717,657, as appears by a statement, No. 4, which is subjoined to this report. The increase, indeed, must probably have been greater, as the returns for the last mentioned year, 1798, are very incomplete—two quarters being wanting from Philadelphia, as many from Charleston, and four from Savannah; which deficiencies will, probably, be found to have produced a greater deduction from the product in 1798, than can have been made up for by the additional duties laid in 1797. This progressive increase, notwithstanding the intermediate fluctuation, appears to the committee to prove, satisfactorily, that the importation of the articles in question is not injuriously affected by the present duty; which may, therefore, be safely augmented to the amount proposed.

There is another consideration on this head, which is conceived to be of great weight. These articles are all imported from distant places, on general freight, and in ships of great value; which circumstances so much increase the difficulty and hazard of smuggling, as to leave little danger of its being attempted, under the operation of any duties that the consumption will bear. They are, moreover, in the same situation with many other articles, such as muslins, muslinets, and colored cottons, which now pay the proposed duty of $12\frac{1}{2}$ per cent.

The average net product of the ad valorem duties, from 1794 to 1798, inclusive, a period of five years, being \$3,181,173, as appears from the statement above mentioned, No. 4, it follows that, if the ten per cents be supposed to constitute two-thirds of the whole mass, which is probably the case, the additional $2\frac{1}{2}$ per cent. proposed to be laid on them would produce \$600,000.

As to the third proposition of the Secretary, the tax on drawbacks, it appeared liable to more doubt.

In support of the plan, it was urged, that the great mass of our re-exportation consists in commodities, chiefly sugar and coffee, which we bring from the East and West Indies, and afterwards carry to Europe, for the consumption of France, Holland, and Germany; and in East India and China goods, wherewith we supply the people of the West Indies and of South America. That

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the commerce of France, Holland, and Spain, being annihilated by the events of the war, and that of Sweden and Denmark very inconsiderable, the carrying trade may be considered as almost exclusively possessed by the English and ourselves. That the English, being at war with France, Spain, and Holland, and thereby excluded from the ports of those nations in Europe, Asia, and America, cannot enter into competition with us, in the business of supplying their possessions, especially those in South America and the West Indies, with East India and China goods; and that we, consequently having the exclusive possession of this traffic, may lay what price we please on the goods re-exported; and, of course, may compel the consumers to repay to us the tax laid on those goods here, by the refusal of part of the drawback. That the same reasoning will apply, in a great degree, to the supply of Europe with sugar, coffee, and other East and West India commodities, because France, Holland, and Spain, being shut against the English, by the war, they cannot become our competitors for the direct supply of those countries. That, as to the indirect supply, through the ports of Germany and Portugal, especially the former, which are by far the most considerable, we can furnish it on better terms than they; because they are excluded from many of the countries where the commodities are produced, and because their trade with the north of Germany is exposed to great danger and interruption from the French and Dutch privateers. And, finally, that the English are less liable to enter into a competition which we ought to dread, inasmuch as the monopoly of their East India trade, by a particular company, prevents individual enterprise and ingenuity from being excited in carrying it on, upon the best terms; and as the English Government itself has laid a duty on exports, during the war, equal to that proposed by the plan under consideration: so that her merchants and ours being on an equal footing, in that respect, they could not underbid us in the foreign markets to which both resort.

From hence, it was concluded that, while the war in Europe, and the present state of things resulting from it, shall continue, a tax on drawbacks, such as that proposed, would be a tax, not on our own commerce or our own merchants, but on foreign nations, who, being the consumers of the re-exported commodities, whereon the tax would fall in the first instance, and being compelled, during the war, at least, to purchase those commodities from us alone, would be under the necessity of repaying to us the tax, in addition to the price which we should otherwise demand.

To this it was answered, that the whole argument rests on the supposition of our being able to effect two things, both of which are of a very uncertain nature, namely to monopolize the business of supplying the countries in question with East and West India and China commodities, and to compel those commodities to touch first at our own ports, before they are carried to the places where they are consumed: it being clear that if, by raising the price of the commodities, we should

raise up competitors, who would underbid us in foreign markets; or should, by taxing them on their arrival in our ports, render it the interest of our merchants to carry them directly from the places of their production, to the places where they are to be consumed, without landing them in this country; we should, in either case, lose the duty: in the first, by ruining altogether the trade, whereon it must depend; and, in the second, by turning the trade away from our own ports, where alone the duty can be collected.

Whether we should be able to monopolize the business in question, to such an extent as to have it in our power to lay our own price on the commodities which compose it, was said to be very uncertain, for various reasons: First, because the English possess very far the greater part of those places, in the East and West Indies, where the valuable commodities consumed in Europe are produced, and their merchants can carry them directly from thence to the ports of Germany, or of Denmark and Sweden, from whence they would easily find their way into Holland and France. Secondly, because the duty on exports laid in England, may easily be avoided by her merchants, by means of going directly to the foreign markets, instead of first touching at home; and the danger of privateers is greatly lessened, by the convoy which she gives to her trade, and the great number of her squadrons and cruising frigates in those seas—circumstances whereby her trade is, probably, rendered more secure than ours. And, thirdly, because, although her merchants cannot carry the East India and China goods, directly, to the French, Spanish, and Dutch possessions, in the West Indies and South America, they can and do carry those goods, in immense quantities, to their own islands; from whence they are known to find their way, by means of an illicit trade, perhaps connived at by those employed to prevent it, into the places of which we suppose ourselves to possess the exclusive supply.

As to the example of England, which is said to have laid our export duty analogous to the tax or drawbacks now proposed, it was observed, in the first place, that the experiment in England has not been long enough made to enable us to judge of its success; secondly, that so far as time has furnished information on that head, the experience of England is against the plan, her exports having diminished since the period when that tax was laid; and thirdly, that what is called a tax on exports in England, is, in fact, a premium paid for convoy, which the Government, in consideration of this premium, engages to furnish, and does furnish, to every ship sailing from her ports; an arrangement which enables shippers to obtain their insurance at a lower rate; so that the duty on exports, instead of being a tax on the trade of England, is merely a part of the premium of insurance, which the merchants pay to the Government, instead of paying to the underwriters: whereas, in our case, as we give no convoy, it would be a mere tax on our trade, which our merchants must pay in the first instance, and might or might not be able to get back from the consumers.

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If they should prove unable to get it back from the consumers, by reason of the competition, which the augmentation of price, consequent to the duty, might create or increase, the trade must, in the end, be ruined; and with it must perish, not only a great portion of our revenue, and of our navigation, the basis of our future maritime strength, but also of the industry of our seaport towns, which is nourished and sustained by our navigation.

If, on the other hand, they should prove able to levy this tax ultimately on the consumers, still it was urged, would the question remain, whether the tax would be sufficient to induce the merchants to avoid our own ports, and either to go directly to the consumers, from the places where the commodities are produced, or where that cannot be done, to touch at some ports where no such duty is laid; in either of which cases, we should not only lose the revenue expected from this duty, but also affect, to a degree not easily foreseen, all those branches of industry, in our country, which are connected with the landing, storage, and re-shipment of goods, and the arrival, repair, and supply of ships.

The duty of two and a half per cent. on the amount of a valuable cargo, it was observed, is a premium sufficient to afford a very strong temptation to avoid our own ports. Men of small capital, who could only import parcels of goods on freight, might not be able to do this, and therefore must pay the duty; while large capitalists, who import entire cargoes, in their own or in chartered ships, might be able to do it, and thus avoid the duty; whereby a monopoly would be created, to the very great detriment of our commercial interest, the prosperity of which depends far more on the mass of small capitalists than on the small number of great ones.

It was further urged, that this measure, so hazardous in itself, and the mischiefs whereof, should it prove unsuccessful, must always take place, and may have become irremediable before they can be perceived, is by no means necessary, since the two first parts of the Secretary's plan, the additional duties on wines and the ten per cent. articles, will afford an additional revenue of from six to seven hundred thousand dollars; to which might be added \$200,000 by a half cent per pound additional on brown sugar; and \$50,000 by a like addition, per pound, on coffee—making, in the whole, an additional revenue of at least \$900,000; which is more by \$50,000 than the sum proposed to be raised.

It was shown, by a statement of the duties on brown sugar, for six successive years, which is annexed to this report, No. 5, that the net product of that article, at a duty of one and a half cents per pound, from the beginning of 1793 to the end of 1797, a period of five years, increased from \$646,715 to \$735,671; and that the average net product, for a period of six years, from 1793 to 1798, inclusive, was \$586,292. It was contended that, although an addition of half a cent was made to that duty in 1797, and the product in 1798, nevertheless, appeared to be less than in

former years, being only \$630,791, as stated from the returns, yet no conclusion unfavorable to the duty could be drawn from thence; because the returns for that year were very deficient; two quarters being wanting from Philadelphia and Charleston, and four from Savannah; which, probably, had reduced the apparent amount much more than the actual receipt had been augmented by the additional duty.

Hence, it was inferred, that the consumption and importation of brown sugar had not yet been injuriously affected by the former duty; and that the average net product being at the rate of \$200,000 for every half cent of duty, that sum might be expected from the proposed augmentation.

On the subject of coffee, it was shown, by a statement of the duties on that article, for six successive years, from 1793 to 1798, inclusive, which is also annexed hereunto, No. 6, that the average net product of those duties, during the period in question, was \$498,762, although the returns for the last year in the period were incomplete, as has been already stated, and no addition has been made to the duty since 1792. Hence, it was inferred that an additional half cent might safely be laid on that article also; which, as the present duty is five cents per pound, would produce the sum of \$50,000.

Such were the arguments for and against the proposed tax on drawbacks; and such the objects of revenue, which it was thought might, with more safety and propriety, be adopted in its stead. The committee did not deem it their province to pronounce any decision on these points, but solely to bring them into the view of the House, and submit them to its consideration. There was, however, one proposal made, which does not appear to them to be of a doubtful nature, and which they have, therefore, thought it proper to recommend.

In the act allowing drawbacks, there is a provision, that one per cent. on the whole amount of them shall be retained, in order to defray the expense of management. Afterwards, one quarter per cent. was added to this first deduction, in lieu of stamp duties on debentures. It has been suggested by the Secretary of the Treasury, that the sum thus retained is found insufficient to defray the expenses incident to the allowance of drawbacks; and the committee are of opinion that it will be proper to double it. In that case, the reduction made by the Government for the expense of management, and in lieu of stamp duties on debentures, will amount to about \$100,000 annually, which, as the present amount does not exceed \$50,000, will be a further addition to the revenue of \$50,000.

Having thus brought the whole subject into view, as fully as seemed to them to be proper, the committee beg leave, in order to take the sense of the House on the various matters stated in their report, to submit to its consideration the following resolutions.

1st. *Resolved*, That it is expedient to lay an additional duty of — per centum on the amount

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of the present duty upon wines imported into the United States.

2d. *Resolved*, That it is expedient to lay an additional duty of — per centum ad valorem on such goods, wares, and merchandises, imported into the United States, as are now subject to a duty of ten per cent. ad valorem.

3d. *Resolved*, That it is expedient to lay a tax on drawbacks allowed by law, for goods re-exported from the United States, according to the plan proposed in the letter of April the 10th, 1800, from the Secretary of the Treasury to the Committee of Ways and Means.

4th. *Resolved*, That it is expedient to lay an additional duty of — per pound on brown sugar and coffee imported into the United States.

5th. *Resolved*, That it is expedient to retain — per centum on all drawbacks allowed for goods re-exported from the United States, for the expenses incident to the allowance thereof, and in lieu of the stamp duties on debentures, in addition to the sums heretofore directed, by law, to be so retained for the aforesaid purposes.

No. 1.

COMMITTEE ROOM, Feb. 14, 1800.

SIR: The Committee of Ways and Means, conceiving it proper for Congress to establish, during the present session, permanent revenues equal to the interest of the loan which may be necessary to make this year, and perhaps, to that of last year also, the amount of which two charges will, probably, not fall short of six hundred and eighty thousand dollars, annually, have directed their attention to the inquiry, "from what sources this additional revenue may be drawn, with the least difficulty to the Government, and the greatest ease to the public." Before, however, they come to any final resolution on so important and difficult a subject, they wish to obtain your opinion on the following points:

1st. Admitting the necessity of providing for both loans, can the requisite sum, or any considerable part of it, be raised by an addition to the duties on certain articles imported? What are those articles, and to what amount may new duties be laid on them? The committee have thought of wines, spirits, brown sugars, and woollen cloths. Salt, also, has been suggested as an article on which a further duty might perhaps be laid.

2d. Admitting a further duty to be laid on wines and spirits imported, will it not be necessary to make a corresponding augmentation on the tax on stills, and domestic distilled spirits? And can such augmentation be made with due regard to the situation of remote parts of the country?

3d. What would be the policy of abandoning altogether the idea of augmenting the imposts, and resorting to an internal tax, by way of excise, on wines, spirits, coffee, teas, and sugars? Or, would it be better to adopt both modes, in part?

4th. As a change will, probably, be made this year, in the mode of stamping, which will render it proper to call in and change the stamps, might

not those duties be safely augmented, so as to raise a further sum of one hundred thousand dollars?

5th. Might not a national lottery be established, so as to raise from one hundred thousand to one hundred and fifty thousand dollars annually? And how far would such a mode of taxation be advisable?

In addition to your opinion on these several points, sir, the committee would be much obliged by the communication of any ideas which may have occurred to you on the subject in general. And as the interest and extinguishing annuity of the deferred debt will commence next year, they beg you to take into view the means of providing for those objects likewise.

With the highest respect, I have the honor to be, sir, &c.

ROBERT G. HARPER.

HON. SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT, April 10, 1800.

SIR: I have, with the aid of the best information which I could obtain, deliberately considered the important questions, upon which, on behalf of the Committee of Ways and Means, you have been pleased to request my opinion.

Although, according to my view of the subject, the public debts have not hitherto considerably increased, since the establishment of the existing Government; yet, as the expenditure, at the present time, considerably exceeds the stated income from duties and taxes, an augmentation of the revenue appears to be advisable.

The sources from which this revenue may be expected, with the greatest ease to the community, are believed to be the following:

1st. From an increase of duties on the importation, and a new arrangement of drawbacks, payable on the exportation of certain articles of foreign growth or manufacture.

2d. From a new modification of the duties on stills employed in the distillation of spirits from domestic materials.

3d. From a duty on the transfer of real property, to be collected by stamps.

The first mentioned subject being the most complex, and of great importance, considered both in relation to the interests of commerce and the revenue, is separately presented to the consideration of the committee.

The paper herewith transmitted, marked A, exhibits a view of the rates of duties at present levied on imports; that marked B is respectfully offered as a substitute.

It is proposed to increase the duties on several kinds of wines, and generally to impose a duty of twelve and a half per centum, ad valorem, on the merchandise at present subject to duties at ten per centum; a few articles only, of no great importance, are placed in the list of goods subject to the rate of fifteen per centum.

It is known to the committee, that the quantities of articles of foreign growth or manufacture, which are imported into the United States for the

Public Debt.

purpose of being exported, have greatly increased, and are still increasing; the sum of one and one quarter per centum upon the duties at present retained, is found, on calculation, to be hardly sufficient to defray the custom-house expenses, occasioned by this branch of business. After a very close examination of the subject, it is my opinion that the revenue may be increased, and the manufactures of the country encouraged, by reducing the drawback in the mode proposed, without injury to commerce.

This opinion will, it is believed, receive a confirmation, from an examination of the commercial and financial systems, and actual situation of the countries with which our commerce of importation and exportation is, at present, prosecuted; to guard, however, against the consequences of any mistake, it is respectfully proposed that the present rates of drawback shall be allowed after the termination of the present war in Europe.

I have the honor to be, with the greatest respect, sir, &c.

OLIVER WOLCOTT.

Hon. ROBERT G. HARPER, *Chairman, &c.*

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TREASURY DEPARTMENT, April 12, 1800.

SIR: In compliance with your request, I have the honor to inform you that, if the tariff of duties and drawbacks, which accompanied my communication of yesterday, shall be established, the revenue will probably receive an addition of about nine hundred thousand dollars per annum.

I have added, at your request, a particular list of the articles upon which the duties are proposed to be increased or varied.

I have the honor to be, with respect, sir, &c.,

OLIVER WOLCOTT.

Hon. ROBERT G. HARPER, Esq.

[The tabular statements, being voluminous, are necessarily omitted in this work.]

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PUBLIC DEBT.

[Communicated to the House of Reps., May 18, 1800.]

Mr. GRISWOLD, from the committee who were appointed, on the twentieth of March, to examine the accounts of the United States, relating to the public debt, and to report the amount respectively incurred and extinguished, and, generally, such facts as relate to the increase or diminution of the same, since the establishment of the Government of the United States, under the present Constitution, made the following report:

That, for the purpose of obtaining every statement from the Treasury which could elucidate the subject of inquiry, they addressed a letter to the Secretary of that Department, on the twenty-fourth of March, a copy of which is subjoined to this report, and, on the twenty-ninth of April they received his answer, transmitting sundry statements, numbered from 1 to 9, inclusive, and exhibiting, in the most clear and satisfactory man-

ner, the most important of the Treasury operations in relation to the debt, from the commencement of the present Government. These statements, together with three letters from the Secretary, on this subject, are now submitted to the House; and, although it is certainly possible that some trivial errors may have taken place in the details which these documents contain, yet the committee are perfectly confident that the general results which they produce must be correct.

The statements numbers 1 and 2, contain an account of the receipt and expenditure of all public money, from the commencement of the Government, and, whilst they show the application of the revenue to the debt, they will present, at the same time, in one view, every expense with which the Treasury has been charged, and enable the Legislature, with more accuracy, to decide how far those objects, or the amount of expense, in particular cases, may be diminished.

The order of the House having particularly directed the attention of the committee to the increase or diminution of debt, they have thought it their duty to bring into view the amount of debt with which the present Government commenced its operations, and to contrast the same with the balance of debt on the first of January, in the present year. In discharging this duty, it will become necessary to explain the principles on which these statements rest, which the committee will do, in as concise a manner as possible. But, before they enter upon this detail, they cannot forbear to express the satisfaction which they feel, in declaring that the documents which have been obtained from the Treasury will, in their opinion, fully demonstrate the precision and ability with which the business of the Department has been conducted, and that, by the fiscal operations of the Government, the public debt has been diminished.

In ascertaining the amount of the old debt, two different principles have been taken by those who have made their calculations on this subject. The first has been to include only the interest upon the debt to the close of the year 1789, as the nearest convenient period to the day when the Government commenced its operations, and, after deducting from the aggregate of debt the amount of funds then in the power of the Government, to consider the balance as the amount of old debt. The second principle has been, to take the amount of debt as the same has been liquidated and funded, under various acts of Congress, and after deducting therefrom the funds acquired or possessed by the Government at the close of the year 1790, to consider the balance as constituting the true amount of old debt. The difference between these principles consists in this: by the last mode of computation, the interest which accumulated upon the debt, subsequent to the close of the year 1789, and until the debt was funded and provided for, by law, is considered as a part of the old debt, whereas, by the first mode of computation, that interest is totally excluded.

In consequence of a difference in opinion, which, it is understood, still exists on this point, the committee have thought proper to state the debt in

Public Debt.

both modes, that the results, in both cases, may be perfectly understood.

The nominal amount of debt, on the 1st of January, 1790, as appears by statement No. 9, amounted to - \$72,237,301 97

The funds then in possession of the Government, and to be deducted, were—

Cash in the Treasury,
January 1, 1790 - \$28,239 61

Cash in the hands of
collectors - - - 83,127 84

Bonds at the custom-
houses - - - 590,468 60

Debts due to the United
States, under con-
tracts of the late Gov-
ernment, collected at
sundry times - - 62,586 74

Debts paid in specie dur-
ing the year 1789 - 15,927 13

Proceeds of the sale of
land to the State of
Pennsylv'nia, made by
the late Government 151,392 41

931,742 33

Amount of debt, January 1, 1790 - 71,305,559 64

By the same document, it appears that the debt contracted by the late Government, as the same has been liquidated and funded by acts of Congress, amounts to - - - \$76,781,953 14

That the funds possessed by this Government, on the 1st of January, 1791, and to be deducted from the debt, were as follow:

Cash in the Treasury,
January 1st, 1791 - \$570,023 88

Cash in the hands of
collectors - - - 225,786 95

Custom-house bonds un-
collected - - - 1,052,215 13

Money collected from
the credits of the late
Government, as in the
preceding statement - 62,586 74

Debts paid in specie dur-
ing the year 1789 - 15,927 13

Sale of land to Penn-
sylvania - - - 151,392 41

Debts purchased and
discharged during the
year 1790 - - - 518,424 08

2,596,356 32

True amount of debt, January 1st,
1791 - - - 74,185,596 82

By the same document, No. 9, it ap-
pears that the debt, exclusive of tem-
porary loans, on the first of Janua-
ry, 1800, amounted to - - - \$76,651,820 30

Temporary loans, without deducting
bank shares - - - - 3,640,000 00

Nominal amount of debt, January 1st,
1800 - - - - 80,291,820 30

Funds acquired by the Government,
and which may be applied to face
the foregoing debt:

Cash in the Treasury, January 1st,
1800, deducting therefrom the
amount of unclaimed registered
debt, and debt due to foreign offi-
cers, which are to be considered, at
times, as a charge on all the specie
balance in Treasury \$2,061,683 49

Remittances to Holland,
beyond the sum ne-
cessary to meet all
demands on the for-
eign debt, to the close
of the year 1799 - 548,955 84

Cash in the hands of col-
lectors and supervisors 532,247 81

Bonds uncollected at the
custom-houses, esti-
mated at six millions,
payable, on an ave-
rage, at six months,
deducting the interest
for that term, leaves - 5,826,214 00

2,220 shares of bank
stock, cost \$888,000
Advance, 25
per cent. - 222,000

Value - 1,110,000 1,110,000 00
10,079,101 14

True amount of debt, January 1st, 1800 70,212,718 16

For the purpose of showing the rapidity with which the public debt was diminishing, at the time when the hostility of France compelled the Government to incur those great and extraordinary expenses which appear in the Treasury statements, and to enter upon that extensive system of defence, which has resulted in the security of our commerce, the committee have thought it necessary, in addition to the preceding statements, to present a view of the debt on the first of January, 1798, remarking, at the same time, that the reduction which at that time had been made, proves, in the most satisfactory manner, the ease with which the debt may be extinguished, whenever the Government shall be left unembarrassed by internal disorder or foreign hostility.

The nominal amount of debt, on the
1st of January, 1798, was - - - \$76,366,618 82

Funds to be deducted, were—

Cash in the Treasury,
January 1st, 1798 - \$1,021,889 04

Cash in the hands of
collectors - - - 265,369 03

Cash in the hands of
supervisors - - - 32,964 39

Value of bonds uncol-
lected at the custom-
houses, January 1st,
1798, estimated at - 6,309,058 00

Bank stock, at its value 1,110,000 00
8,739,280 46

True amount of debt, January 1st,
1798, - - - - 67,627,338 36

Public Debt.

From whence it results that, if the amount of debt on the 1st of January, 1800, is contrasted with the debt on the first of January, 1790, it will appear that the debt has diminished by the sum of \$1,092,841 48, or, if it is compared with the debt of January 1st, 1791, the debt has diminished by the sum of \$3,972,878 66; so that, in either mode of stating the account, it clearly appears that the debt has in fact been diminished.

It is, perhaps, of little importance whether the one or the other of the preceding views is taken of the public debt, as the result, in either case, will be highly favorable to the financial operations of the Government; the committee, however, have inclined to the opinion that the debt, as it has been liquidated and funded by the Government, after deducting the amount of funds which arose prior to the 1st of January, 1791, ought to be considered as constituting the true amount of debt with which the present Government has been charged by the Constitution.

It is perfectly clear that no part of the national debt can, with propriety, be considered as new debt, which arose prior to the complete establishment of the present Government; and it is equally certain that the funded debt originated from the contracts of the late Government, and although it is certain that the interest, for a certain period after the present Government commenced its operations, was suffered to accumulate, and now composes a part of the capital of the debt, yet it will be recollected that the Government commenced its operations without revenue, without any system of finance, or funds of any description, to meet even the ordinary civil list expenditure; that every plan which was ultimately adopted, for the purpose of revenue, was to be devised, matured, and finally carried into execution, before any money could be brought into the Treasury; that, from the nature of things, a considerable time must necessarily have elapsed before the Government could be considered as completely established, before any arrangements could be made, either for liquidating the debt or providing the means of discharging the interest arising thereon, and that, during that period, the interest (as had been the case before the adoption of the Constitution) did necessarily accumulate; but the committee believe that this accumulation of interest is entirely chargeable to the imbecility of the late Government, and, of course, ought to be considered as composing a part of the old debt. It may likewise be remarked, that the sum which was lost by this accumulation of interest was more than replaced by the terms on which the debt was funded.

The debt which had been contracted by the late Government generally bore an interest at six per cent., and the large arrearage of interest which had accumulated thereon had been long due, and might have been demanded by the creditors in cash; but, by the terms of the new contracts with them, that interest was converted into a capital, bearing an interest of three per cent., and the difference between the value of that stock and specie, has been gained by the Government; so that,

in whatever point of view this subject is considered, it appears clearly to the committee that the old debt cannot be considered as composing a sum less than that at which it has been funded.

The committee would not have thought it necessary to explain the principles on which they have deducted, from the nominal amount of debt, at the various periods when they have stated the same, the amount of funds acquired or possessed by the Government at those periods, respectively, had not the propriety of those deductions been formerly questioned. It is, however, understood to be now admitted that all the items composing those funds form a proper deduction from the amount of debt, except the bonds remaining uncollected at the custom-houses; this item alone, it has been said, ought to be excluded from the account.

The propriety of deducting these bonds, together with the other items, from the debt, has appeared to the committee so apparent, that they have found some difficulty in rendering a principle more intelligible, which to them appears self-evident.

The object of every statement of this nature must be to ascertain the balance of debt; and to do this, it is apparent that the debts and credits of the Government must be drawn into the account. The principle which applies to the accounts of an individual, applies in the same manner to the accounts of a nation; the amount of debt can, in neither case, depend on the amount of accounts, but upon the balance which results from a comparison of debt and credit; that these bonds are the property of the Government has not been controverted, and if there is any meaning in terms, they contain personal engagements for money, and must be credits; the obligation to pay these bonds could be no stronger, if they had been executed by individuals for money loaned, nor would the mode of collection be in the least varied; and whilst the effect is precisely the same with that of all credits, it remains for those who place them on different principles to explain the grounds of distinction.

That they have been executed for duties is true, but the credit which is thereby given to the merchant is entirely for his accommodation; and such are the express provisions of the law, which requires that the duties on goods shall be paid or secured before they are landed, at the option of the importer. The duties are to be paid or secured, not upon the consumption, but upon the importation, and the bonds which have at any period been taken for duties, and which remain uncollected, are to be considered as securities for the revenue of the preceding year; the Government has nothing to do with the goods on which duties have been secured after the bonds are taken; whether they are consumed or destroyed, neither increases or diminishes the obligation of the merchant to pay the contents of his bond. A further circumstance may be adverted to, which, if anything can render this point more clear and certain, may, perhaps, produce that effect—it is the consideration that a considerable amount of these bonds have already been pledged for the payment

Public Debt.

of a part of the debt. The temporary loans which appear in the preceding statements have all been obtained in anticipation of the money arising from the bonds; and it would be a singular case, indeed, if the pledge, which is confessedly of greater value than the debt, and from the proceeds of which the debt must in fact be discharged, is to be totally excluded from a general account of debts and credits.

In reviewing the progress and present situation of the debt, the committee have been led to consider the causes which have hitherto retarded its extinguishment. The deranged state, or rather total want of funds and revenue, at the commencement of the Government, has been already noticed, and it cannot be necessary to add, that the delays which necessarily attend all financial operations, at their outset, must have prevented the Government, for a considerable time, from extending the revenue so far as convenience and policy might afterwards require; but the committee deem it important to add that the extraordinary expense which has arisen within a few years, has swallowed up large sums of the public wealth, and diverted the application of those moneys which might otherwise have gone to the extinguishment of debt, to objects connected with the honor, and, in some cases, with the immediate existence of the Government.

In this class of expense will be included a large sum occasioned by the Indian war, one million two hundred and fifty thousand dollars expended in quelling two insurrections in the State of Pennsylvania, more than one million and a half expended in our transactions with Algiers, and other Mediterranean Powers, together with a much larger expense occasioned by the unprovoked aggressions of France upon this country. Had it been possible steadily to have applied those various sums to the purchase of debt, it is easy to conceive how rapidly the same might have been extinguished. The committee have likewise noticed the large sums which have been necessarily expended in the erection of light-houses, repairing fortifications, in purchases for replenishing our military and naval arsenals, and in the building, purchase, and equipment of more than forty sail of ships and armed vessels, together with a considerable loan to the Commissioners of the City of Washington. The money expended on these objects, it is well known, arise to a very large amount, and the property thus acquired by the Government, and which is now on hand, cannot be estimated, on the most moderate calculations, at a sum less than four millions of dollars. The value of this property might be considered as composing another item in the credit of the general account of debt, but the committee have not thought it necessary to include it, and have noticed it particularly at this time, for the purpose of exhibiting a more general view of the extraordinary expense incurred by the Government, and for the purpose of presenting all that information in relation to the debt which will enable the House accurately to appreciate the great and increasing resources of the country; and on this point the

committee cannot forbear to remark, that the progress of the Government, in its financial operations, must afford the most flattering presages of its future success, if the same system is pursued which has hitherto proved so successful. It cannot certainly be unworthy of remark, that ten years have not at this time elapsed since the Government fairly commenced its operations; that, during that period, it has been necessary to liquidate, to fund, and to provide for a large capital of floating debt, which had grown out of the disorders of the Confederation; that, during the same short period, the Government has been compelled to contend with one expensive war on the frontier, with two insurrections in the centre of our own country, and with depredation and hostility from the nations of Europe; that these embarrassments have nevertheless been faced by the Government; most of the difficulties have been surmounted; the debt has been liquidated and diminished; and the nation has still continued to increase in wealth and population, beyond all former example; and although the contest in which we are now engaged may, for a short period, retard the further extinguishment of debt, or perhaps produce a small addition to that which already exists, yet it cannot be doubted that, whilst we maintain order at home, no exterior circumstances can exhaust or greatly diminish the increasing resources of the nation.

PHILADELPHIA, *March 24, 1800.*

SIR: I have the honor to enclose the copy of a resolution which passed the House of Representatives on the 20th instant.

The committee who have been appointed, in pursuance of this resolution, have directed me to request from you such a statement of the public accounts, relating to the debt, as will enable them, with the greatest facility and accuracy, to make a report on this subject.

The principal object contemplated, is to ascertain, with precision, how far the public debt has been increased or diminished since the establishment of the present Government.

With a view to this object, it will naturally occur that two general accounts are necessary.

1st. An account exhibiting the amount of debt incurred, under the Confederation, and with which the present Government has been charged by the Constitution.

2d. An account of the existing debt, at the latest possible period, which it is presumed must be on the first day of January, 1800.

In respect to the first of these accounts, it is requested that the whole amount of the old debt, of every description, may be given, arranged under distinct and proper heads, as the same has been funded, assumed, liquidated, or otherwise ascertained, by acts of the Government, or settlement at the Treasury. It is, however, desired, that the account may be so stated that the interest which accumulated after the commencement of the present Government, and which has, in any shape, been converted into capital, may distinctly appear.

Estimate of Appropriations.

The interest herein particularly alluded to, has accrued upon the foreign debt, upon loan-office certificates, together with other evidences of debt, prior to the 1st of January, 1791, on the assumed debt, prior to the 1st of January, 1792, distinguishing, however, the interest which accumulated in the last year, and on the debt due to certain creditor States, to the close of the year 1794.

In respect to the account for exhibiting a view of the debt on the 1st of January, 1800, it will, of course, contain a complete statement of the old and new debt, together with the purchase and reimbursement of so much of the same as has been already discharged; but it is the wish of the committee that the payments in specie, which have been made, under authority of direct grants from the Legislature, may be particularly stated, and the aggregate brought into one view.

The committee likewise request an account of payments for military pensions, cash in the Treasury, cash in the hands of collectors, and an estimate of the current bonds at the custom-houses, deducting debentures and estimated drawbacks.

An estimate of the value of public property, acquired by the present Government, is likewise desired; including the capital employed in trading houses, light-houses, and other public buildings, public ships, arsenals, with their contents, and fortifications.

The amount of extraordinary expense incurred by the Government, in consequence of events which it is hoped will not be repeated, is also requested. Under this head will be included the expense of treaties with the Mediterranean Powers; the two insurrections in Pennsylvania, and the war with the Indian tribes; together with the extraordinary expense incurred in the Military and Naval Departments, in consequence of the present disputes with France, exclusive of ships, and stores in the arsenals.

It will likewise be satisfactory to the committee to be informed whether the assumed debt, including the interest which accumulated on the same, to the close of the year 1701, was not charged to the particular States in the settlement with them, and whether the temporary loans which have been obtained from the bank, have not been obtained on the principle of anticipating the revenue.

A statement of the account with the bankers in Holland, on its latest adjustment, and a general account of debts contracted and debts discharged, annually, will gratify the wishes of the committee.

The committee do not wish that the statements from the Treasury should be exclusively confined to the objects which have been particularly detailed: they submit to your judgment the propriety of furnishing any other statements which, in your opinion, will elucidate the object of inquiry. They take the liberty, however, to suggest, that, if the time can be spared at the Treasury, it might be useful to obtain a general account of receipts and expenditures, from the commencement of the Government. I have the honor to be, very respectfully, your obedient servant.

ROGER GRISWOLD.

Hon. Mr. WOLCOTT, *Sec. of the Treasury.*

6th CON.—41

TREASURY DEPARTMENT, *April 29, 1800.*

SIR: I have the honor to transmit, herewith, sundry statements, numbered from 1 to 9, inclusive, which have been prepared in pursuance of your letter of March 24, and which, I trust, will satisfy the inquiries of the committee appointed to report to the House of Representatives such "facts as relate to the increase or diminution of the public debt, since the establishment of the Government of the United States, under the present Constitution."

I have every reason to believe that the general results of these statements are entirely correct, and am unconscious of any defect in the details required by the committee, except in respect to the sums expended on fortifications, ships, arsenals, and other buildings, and in the purchase of military and naval stores. The sums stated under these heads have been necessarily founded on estimates, as a precise account could only be obtained from an examination of the transactions of the agents employed by each of the Executive Departments, and a valuation of the property now remaining in the possession of the Government. I trust, however, that I am not mistaken in assuring the committee that the value of the public property has not been overrated.

If the documents now transmitted should, in the opinion of the committee, require elucidation, their commands shall be executed with alacrity; it being certain, that, whatever opinions may be entertained respecting the increase or diminution of the public debt, in consequence of expenditures which have been authorized by the present Government, there can be no difficulty in determining the true state of all the facts by which those opinions must be supported. I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT.

Hon. ROGER GRISWOLD, *Chairman, &c.*

[The tables, being voluminous, are necessarily omitted.]

ESTIMATE OF APPROPRIATIONS.

The Secretary of the Treasury respectfully reports to the House of Representatives of the United States, That, for the service of the year 1801, the following appropriations, as detailed in the estimates herewith transmitted, appear to be necessary:

TREASURY DEPARTMENT,
December 10, 1800.

For the Civil List, for the support of Government, including the contingent expenses of the several departments and offices	- \$594,701 37
For the payment of annuities and grants	- - - 1,753 33
For the support of the Mint Establishment	- - - 13,300 00
For the ordinary expenses of intercourse with foreign nations	- - - 85,000 00
For expenses incident to the treaties with Great Britain, Spain, and the Mediterranean Powers	- - 361,364 00

Estimate of Appropriations.

For the expenses of supporting the claims of citizens of the United States, to property captured and detained in foreign countries -	\$64,000 00
For aid to distressed American seamen in foreign countries, and occasional assistance after their arrival in the United States -	30,000 00
For defraying the expenses incident to the valuation of dwelling-houses and lands, and the enumeration of slaves, in pursuance of the act of Congress, passed on the 9th of July, 1798, and, in addition to the funds heretofore appropriated -	40,000 00
For the military department, including the pay of the Army, rations, clothing, hospital, ordnance, quartermaster and Indian expenses; the defensive protection of the frontiers, and contingencies, agreeably to the estimate of the Secretary of War -	1,400,001 00
For the payment of military pensions -	93,000 00
For the Navy Department, including the pay and subsistence of officers and men, hospital and contingent expenses; the support of the corps of marines; for completing navy-yards, docks, and wharves; and on account of building six seventy-four gun ships, agreeably to the estimate of the Secretary of the Navy -	2,342,352 95
For the fabrication of cannon and small arms, and the purchase of ammunition for the Army and Navy, and for the militia of the United States -	400,000 00
For the support of light-houses, beacons, buoys, and public piers, and other establishments for the security of navigation -	38,622, 70
For the second enumeration of the inhabitants of the United States -	60,000 00
For satisfying miscellaneous claims, including the expenses of returning the votes for President and Vice President of the United States -	5,600 00
Amounting in the whole to -	<u>5,529,695 35</u>

The funds out of which appropriations may be made for the purposes before mentioned, are:

1st. The sum of six hundred thousand dollars of the proceeds of duties on imports and tonnage, which will accrue in the year 1801, which sum is by law annually reserved for the support of Government.

2d. The surplus of the revenue and income of the United States, which may accrue, to the end of the year 1801, after satisfying the objects for which appropriations have been heretofore made.

The Secretary also transmits a statement of the receipts and expenditures of the United States, for the year prior to the 1st of October last, being the

latest period to which an account can be prepared. All which is most respectfully submitted, by
OLIVER WOLCOTT,
Secretary of the Treasury.

After this general statement the Secretary descends to a distinct specification of the several items; the most interesting of which, frequently in a condensed form, follow:

President and Vice President -	\$30,000
Senate and House of Representatives -	209,470
Judiciary -	78,900
Treasury Department -	92,713
Loan officers and clerks -	28,250
Department of State -	24,800
Mint -	23,600
War Department -	36,766
Navy Department -	24,489
General Post Office -	12,112
Surveyor General's Department -	28,200
Territory Northwest of Ohio -	5,500
“ “ Mississippi -	5,500
“ “ Indiana -	5,500
Demands unprovided for -	20,000
Annuities and grants -	<u>1,753</u>

Diplomatic Department.

The Secretary of State estimates the following sums for the expenses of foreign intercourse and treaties for the year 1801.

For one Minister Plenipotentiary to Great Britain -	\$9,000
One ditto to Prussia -	9,000
One ditto to Spain -	9,000
One ditto to Portugal -	9,000
One Minister Resident to the Batavian Republic -	4,500
Their secretaries (five) at 1350 dolls. each -	6,750
Contingencies other than personal -	2,750
Making good the deficiency for 1800, in the estimate for the mission to France -	20,000
One Consul General at Algiers -	4,000
One Consul at Tunis -	2,000
One ditto at Tripoli -	2,000
One ditto to the kingdom of Morocco -	2,000
Contingencies other than personal -	<u>5,000</u>
	<u>85,000</u>

Treaties.

For carrying into effect the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain, viz:

For the salaries of the Commissioners under the 6th article -	\$13,320
For salary of the secretary, clerk-hire, stationery, &c., for ditto, -	4,000
The salary of agent relative to said article -	2,000
Clerk-hire and other contingencies of said agent's office -	3,100
Payment to special agents appointed by ditto -	20,000
The salaries of the Commissioners under the 7th article -	<u>14,444</u>

Estimate of Appropriations.

Clerk-hire, office rent, and other contingencies of ditto. - - -	\$2,000
For deficiency of former appropriations for carrying into effect the Treaty between the United States and the King of Spain, particularly in running the boundary line, pursuant to the second article of the said treaty, and sundry contingent expenses of the military escort which attended the Commissioners of the United States - - -	46,500
For the difference between the cost of stipulated articles in the annuity to the Dey and Regency of Algiers, and the permanent appropriation therefor - - -	56,000
For fulfilling the engagements of the United States with the Mediterranean Powers, viz: Algiers, Tunis, and Tripoli - - -	200,000
	<u>361,394</u>

Prize Causes.

For prosecuting the claims of American citizens for property captured by the belligerent Powers, viz: - - -	
For the salaries of two agents residing in London - - -	\$5,000
Their contingencies other than personal - - -	4,000
For prosecuting claims before the high Courts of Admiralty and Courts of Appeals in England - - -	45,000
Reimbursing Consuls of the United States for instituting and supporting claims to captured property, before tribunals in foreign countries - - -	10,000
	<u>64,000</u>

Relief of Seamen.

For the salary of an agent residing in England, reimbursing Consuls and others for aid rendered to distressed seamen in foreign countries, bringing them home from thence, and assistance in the United States - - -	30,000
For defraying the expenses incident to the valuation of lands and houses, and the enumeration of slaves within the United States, as directed by the late act of Congress of the 9th July, 1798, in addition to the funds heretofore appropriated for that purpose - - -	40,000
	<u>70,000</u>

Military Establishment.

Pay of the Army, consisting of 1,400 officers, artificers, musicians, &c., and of 4,040 privates - - -	480,390
Forage of ditto - - -	7,680
Subsistence of ditto - - -	306,395
Horses for ditto - - -	5,000
Clothing, bounties, premiums, medical and hospital departments - - -	203,530
Quartermaster's department - - -	165,000
	<u>1,167,991</u>

Ordnance Department.

Expenses at Philadelphia - - -	\$9,060
Armory at Springfield - - -	53,592
Ditto at Harper's Ferry - - -	24,540
Laboratory on Schuylkill - - -	6,460
Five store-keepers - - -	1,960
Rent - - -	4,388
	<u>100,000</u>
Defensive protection of frontiers, &c. - - -	30,000
Military pensions - - -	90,300
	<u>1,390,991</u>

Indian Department.

Annuities to the Six Nations of Indians - - -	4,500
Cherokees - - -	6,000
Chickasaws - - -	3,000
Creeks - - -	1,500
Choctaws* - - -	2,000
	<u>17,000</u>
Expenses attending the transportation of the above annuities, and also the annuities per act of the 6th of May, 1796, - - -	11,500
Deduct so much appropriated - - -	1,500
	<u>10,000</u>
Promoting civilization, pay of temporary agents, &c. - - -	15,000
Contingent expenses for presents to Indians on their visits to the seat of Government, also for expenses attending their journeys, and during their stay, and on their return home, &c. &c. - - -	7,500
Rations to Indians at the different military posts, and within their respective nations - - -	22,500
	<u>72,000</u>

Naval Establishment.

1. United States, Constitution, President, Chesapeake, and Philadelphia—44 guns each.
2. Constellation, Congress, New York, and Insurgent—36 guns each.
3. Boston and Essex—32 guns each.
4. George Washington, General Greene, Adams, and John Adams—each 24 guns on main deck, and 8 on quarter deck.
5. Ganges, Connecticut, Maryland, Portsmouth, Merrimack, Patapsco, Delaware, and Baltimore—each 20 and under 32 guns.
6. Herald, Trumbull, and Warren—18 guns each.
7. Richmond and Augusta—16 guns each.
8. Eagle, Pickering, Scammel, Experiment, Enterprise—from 12 to 14 guns each.
9. Seven galleys.

*Although the Choctaws are not entitled to claim the above sum, by treaty, or authorized agreement, yet as beneficial effects are presumed to have resulted from the same grant made to them in the present year, the propriety and policy of renewing the appropriation is respectfully submitted.

The Sinking Fund.

The Secretary of the Navy makes the following estimate of the pay, subsistence, and other expenses of the following description of ships of war, viz:

Of 44 guns and 400 men	-	\$115,945
36 guns and 340 men	-	98,347
32 guns and 260 men	-	74,999
24 on gun deck, 8 on quarter deck, and 220 men	-	66,785
20 to 26 guns and 180 men	-	57,269
18 guns and 140 men	-	45,780
16 to 18 guns and 100 men	-	35,737
12 to 14 guns and 70 men	-	24,213
Galley 28 men	-	9,200

Marine corps, consisting of 1143 men, including officers	-	\$166,903
5 frigates of 44 guns	-	579,728
4 do. of 36 do.	-	393,391
2 do. of 32 do.	-	149,999
4 (smaller) of 32 guns	-	267,035
8 ships of 20 to 26 guns	-	458,158
3 sloops of war of 18 guns	-	137,341
2 brigs of 16 to 18 guns	-	71,474
5 brigs and schooners of 12 to 14 guns	-	121,069
7 galleys	-	64,400
Contingent expenses	-	37,850

Total, adding fractions, - 2,447,352

The Secretary further estimates:

For progressing with six seventy-four gun ships, and for completing navy yards, docks, wharves, &c.	-	\$500,000
For erecting marine barracks	-	20,000
For maintenance of French prisoners And to make up the deficiencies of former appropriations for the maintenance of French prisoners	-	30,000
	-	45,000

3,042,352 95

But the appropriations heretofore made for the different objects relating to the Navy will not be exhausted at the end of the present year, by a sum equal to \$700,000, so it may not be necessary to appropriate for the year 1801, for all the navy purposes, exclusive of providing timber to be laid up in store for future use, more than - 700,000

2,342,352 95

Estimate of the number of persons composing the crews of the Navy of the United States.

5 Frigates of	44 guns and 400 men,	2,000
4 Ditto	36	1,360
2 Ditto	32	520
4 Ditto, smaller,	32	880
8 Ships of	20 to 26	1,440
3 Sloops of	18	420
2 Brigs	16 to 18	200
5 Do. and schooners,	12 to 14	350
7 Galleys.	28	196

Total, including marines. - 7,366

SINKING FUND.

[Communicated to the Senate, Nov. 28, 1800.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their report of the 11th of December, 1799, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 27th of November, 1800, and in the proceedings of the officers of the Treasury, therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

JOHN E. HOWARD,
President of the Senate pro tem.

November 28th, 1800.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That no purchases of the debt of the United States have been made, since the date of the last report to Congress, of the 11th day of December, 1799; and that the sums of capital stock heretofore purchased and transferred, prior to the present year, in trust for the United States, the interest whereon is appropriated, by law, towards the reduction of the public debt, amounts to four millions seven hundred and four thousand two hundred and nineteen dollars and sixty cents, as will more particularly appear from the document hereto annexed, marked A.

That the following sums have been applied towards the discharge of the principal debt of the United States, since the date of the last report to Congress of the 11th of December, 1799:

1st. To the fifth instalment of the six per cent. stock, bearing a present interest, which, pursuant to the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed on the 3d day of March, 1795, and the act in addition thereto, passed on the 28th day of April, 1796, became payable on the first day of January, 1800, the sum of - \$716,894 36

2d. To the payment of the eighth instalment of the subscription loan for bank stock, due on the last day of December, 1799 - 200,000 00

3d. To the payment of the third instalment of a loan of one million of guilders, obtained in Holland, and which fell due the present year, pursuant to a contract, dated the 1st of June, 1787, estimated at 40 cents per guilder - 80,000 00

4th. To the payment of the second instalment of a loan of one million of guilders, obtained in Holland, and which fell due in the present year, pursuant to a contract, dated the 13th of March, 1788, estimated at 40 cents per guilder - 80,000 00

Mint of the United States.

5th. To the payment of the first instalment of a loan of three millions of guilders, obtained in Holland, and which fell due in the present year, pursuant to a contract, dated the 1st day of January, 1790, estimated at forty cents per guilder - - - - - 240,000 00

Amounting in the whole to \$1,316,894 36

The payments before enumerated have been made out of the following funds:

1st. The interest fund on the sums which accrued upon the stock purchased, and transferred to the Commissioners of the Sinking Fund, in trust for the United States, as particularly stated in the document hereto annexed, marked B - - - - - \$522,323 11

2d. The fund arising from the payment of debts, which originated prior to the present Constitution of the United States, as particularly stated in the document marked C - - - - - 2,943 39

3d. The fund arising from dividends on the capital stock, belonging to the United States, in the Bank of the United States, from the 1st of July, 1798, to the 30th of June, 1799, after deducting the interest on the subscription loan for the same period, as particularly stated in the document hereto annexed, marked D - - - - - 29,040 00

4th. The proceeds of duties on goods, wares, and merchandise, imported, on the tonnage of ships or vessels, and on spirits distilled within the United States, and stills, appropriated by the 8th section of the act of March 3d, 1795, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," being for the period and in reference to the objects mentioned in this report - - - - - 762,587 86

\$1,316,894 36

Making, in the whole, an equal amount to the reimbursements before mentioned.

There remained in the hands of the Treasurer of the United States, as agent of the Board of Commissioners, on the twenty-fifth of the present month, one hundred and sixty-nine thousand and eighty-seven dollars and four cents, which, with the growing produce of other appropriated funds, will be sufficient for the reimbursement, at the end of the present year, of the sixth instalment of the six per cent. stock, bearing a present interest, and the ninth instalment of the subscription loan for stock of the Bank of the United States, which reimbursements are required to be made by the

11th section of the act of Congress, passed on the 3d of March, 1795, herein before mentioned.

All which is respectfully submitted, by
OLIVER WOLCOTT,
Secretary of the Treasury.
TREASURY DEPARTMENT, Nov. 27, 1800.
[Tables omitted.]

THE MINT.

[Communicated to Congress, January 21, 1801.]

MINT OF THE UNITED STATES,

January 2, 1801.

The Director of the Mint respectfully informs the President that the enclosed abstract of coin issued from the Mint of the United States, and struck since the 31st of December last, shows the amount to be three hundred and seventeen thousand seven hundred and sixty dollars, in gold coins; two hundred and twenty-four thousand two hundred and ninety-six dollars, in silver coins; and twenty-nine thousand two hundred and seventy-nine dollars and forty cents, in copper cents and half cents; making up, in the whole, the quantity of five hundred and seventy-one thousand three hundred and thirty-five dollars, and forty cents.

For the information of Government, the Director thinks it expedient to enclose a statement of the expenses and profits of the Mint for the year past, which, from a number of concurring circumstances, has been full as expensive as may hereafter be expected, extraordinary supplies or repairs excepted.

The Director has a peculiar satisfaction in informing the President that there has been received from the test bottoms and ashes, accumulated before his administration of the Mint, four hundred and twenty-eight dollars and forty-seven cents; which repays so much of the nine hundred and seventy-four dollars, heretofore allowed by Congress, as a deficiency in the former account of bullion, and that there is still a quantity of ashes remaining to be cleansed and refined.

The cents issued from the Mint, amounting, now, to the sum of seventy-nine thousand three hundred and ninety dollars and eighty-two cents, the proclamation required by law ought to be issued, by which all other copper coin will be put out of circulation.

The late act of Congress, directing the Mint to remain at Philadelphia, will expire in March next; some further legal provision will be necessary for its continuance here, or removal to the seat of Government. At all events, it will be necessary to provide some other mode of assaying the reserved pieces, set apart by direction of the act of Congress of the 2d of April, 1792, and required by that act to be done once in every year, under the inspection of the Chief Justice, the Secretary and Comptroller of the Treasury, Secretary for the Department of State, and the Attorney General, who are required to attend at the Mint, for that purpose. As it will be impracticable for those

Encouragement to Manufactures.

officers to leave the seat of Government, to comply with this part of the law, and the year will expire on the second Monday in February next, the Director respectfully submits to the President the propriety of recommending to Congress the necessity of a previous provision by law, to prevent a non-compliance with a positive injunction of an act of Congress.

The great rise in the price of copper, in Great Britain, has prevented so large an importation, and of course so large an issue of cents from the Mint, as would, otherwise, have been done, the public being now tolerably well supplied with that species of small change.

The Director thinks it his duty to inform the President that, having had occasion, during the past year, to have accurate assays made of Spanish milled doubloons, it was found that their real value, compared with the standard of the United States, was rather less than eighty-five cents the pennyweight; whereas, by the act of Congress, of the 9th of February, 1793, they are made a legal tender, at about eighty-seven cents the pennyweight, or, in the language of the act, "at the rate of one hundred cents for every twenty-seven grains and two-fifths of a grain, of the actual weight thereof," which creates a loss, on the part of the citizens of the United States, of twenty-seven dollars and forty-two cents on one thousand pennyweight. The official certificate of the assayer is enclosed with this report.

All which is respectfully submitted to the President.

ELIAS BOUDINOT, *Director.*

The PRESIDENT of the United States.

ENCOURAGEMENT TO MANUFACTURES.

[Communicated to the House of Reps., Feb. 2. 1801.]

Mr. SAMUEL SMITH, from the Committee on Commerce and Manufactures, to whom were referred the several memorials and petitions of sundry mechanics and manufacturers, of New York; of the Providence Association of Mechanics and Manufacturers; of the Asylum Company of Journeyman Printers of Philadelphia; and of John Davies, of Alexandria, praying for further encouragement to be given to the manufactures of the United States, by extending the duties on importation, reported:

That, in their opinion, it would be inexpedient, at the present time, further to increase the duties on imported articles.

To the Senate and House of Representatives of the United States, in Congress assembled, the memorial of the subscribers, mechanics and manufacturers, in the city of New York, respectfully sheweth:

Your memorialists, with deference to the superior discernment of Congress, entreat permission to call their attention to the subject of manufactures within the United States.

While the prosperity of agriculture and com-

merce are deservedly objects of national solicitude, the interest of the manufacturer is entitled to a share of attention.

It appears to your memorialists to be a principle of the most obvious policy, that the capital and labor of a State should be directed towards objects most conducive to the public prosperity.

A country so extensive as the United States, and comprehending such varieties of soil and climate, must, necessarily, afford a proportionable variety and quantity of materials for the purposes of manufacture. Wool, cotton, flax, iron, indigo, and numberless other articles, can, with care, be furnished in the greatest abundance; the addition of labor, only, is wanted, to convert them into valuable fabrics. Labor can be considerably facilitated by machinery, and the American genius is particularly adapted to mechanics.

Your memorialists do further respectfully represent, that the prosperity of a State is not only evidenced by its population, but that it likewise consists in the industry of its inhabitants; their usefulness to each other, and their independence of foreign Powers.

While destitute of manufactures, and dependent upon Europeans for a supply of those articles which nature or habit have classed among the necessities of life, we hold some of our principal blessings upon a precarious tenure, of which war or shipwreck may deprive us.

So long as we remain a nation of farmers and merchants merely, we shall be tributary to the Europeans; we shall lavish upon them the wealth that may be retained at home, and pay to them a tax, which is multiplied in every hand through which it passes.

The value of the raw material frequently bears an inconsiderable proportion to that of the manufactured article. The iron, which costs a single cent, is worth an eagle when moulded by the ingenuity of the artisan of Birmingham or Sheffield. To reward the labor of foreign artificers would be generous; but it would be just to remunerate the industry and ingenuity of our own countrymen and citizens.

With submission, your memorialists represent, that the introduction of manufactures would not militate against the interest of the American merchant. The manufactures of Britain constitute the foundation of her commerce. Should any branch of manufacture, when fostered by the protecting hand of Government, rise superior to our internal necessities, we should trust to its excellence to furnish it with a market. Should any branch of commerce be affected by the origin of domestic manufactures, the activity and enterprise of the merchant will not fail to discover a new employment for his capital. The increasing population and wants of our country will prevent a diminution of foreign commerce, for a long time; while the introduction of manufactures will support a domestic commerce, equally advantageous to the merchant, because it will employ his capital at much less hazard; more beneficial to the community, because its profits will be distributed among our own citizens; more conducive to the

State Balances—Insurrection in Pennsylvania.

prosperity of the Government, because the internal intercourse it will occasion, will tend to assimilate and strengthen the empire.

It is not on a sudden that manufactures can be established; they must be pursued with persevering diligence, and nursed by guardian care. They will have many obstacles to encounter, and will be opposed by those Europeans, whose interest it is to render us their perpetual tributaries. But this is a stage through which manufactures must inevitably pass. The weakness of infancy must precede the maturity and vigor of manhood; and unless a commencement is made, we shall have nearly the same obstacles to combat in the next century, that are opposed to us in the present. It appears, therefore, to your memorialists, to be the true interest of the United States to lay the foundation of infant manufactures, and to commence with such articles as can best be supported. When countenanced by the protection of the Government, they will gradually increase, and a new source of opulence and prosperity be opened to our country.

Nations the most polite and enlightened have ever bestowed the utmost attention upon manufactures; they have even cherished valuable fabrics by premiums and bounties, though your memorialists require not these inducements to call forth their enterprise and industry.

Your memorialists beg leave further to represent that, by some fatal inattention, the breed and numbers of our sheep are now on the decline, and with deference submit to the consideration of Congress, whether suitable measures should not be taken to encourage the raising and importation of these valuable animals.

And your memorialists do pray that Congress, by imposing protecting duties, and by such other measures as they, in their wisdom, may suggest, will afford encouragement to such manufactures and fabrics as may be most useful and most likely to succeed in the United States. Your memorialists take the liberty of suggesting, in a schedule, hereto annexed, such particular manufactures as they consider may be most successfully established, and your memorialists pray that such encouragement may be extended toward them, as, in the opinion of Congress, may be deemed proper and necessary.

And your petitioners, as in duty bound, will ever pray.

Mr. GRISWOLD, from the Committee of Ways and Means, to whom was referred the petition of Asa Benjamin, reported:

That the petitioner is a manufacturer of cordage, and states that, in consequence of the high price of labor, the manufacturers of that article are not able to afford cordage at so moderate a price as foreign cordage is sold at, in our own markets; and he prays that an additional duty may be laid on imported cordage.

The committee highly appreciate the importance of the cordage manufacture, and fully believe that, if any serious danger existed of the loss of this important branch of business, it would be

expedient that Government should immediately extend its patronage to it; but, from the best information the committee can collect, they are persuaded that no such danger exists.

And when it is recollected that imported cordage is already subjected to a high duty; that duties upon foreign goods must, in their nature, operate to give a bounty to the home manufacture of the same articles, and must be paid by the consumer, it is believed that the home manufacturers have not, at this time, any reasonable ground of complaint; and that an increase of duty, at this time, merely to increase the price of the article, would be unreasonable, as it respects the consumer.

The committee, therefore, report, that it is not expedient to grant the prayer of this petition.

STATE BALANCES.

[Communicated to the Senate, March 3, 1801.]

Mr. BLOODWORTH, from the committee appointed to inquire whether any, and what, further measures it is expedient to adopt with respect to the balances reported by the Commissioners appointed to settle the accounts between the United States and several States, made the following report:

That, as no disposition has been evidenced by any of the States, against whom balances were reported by the aforementioned Commissioners, except by the State of New York, to subscribe to the terms offered by Congress, a further continuance of the demand against those States, the justice and equity of which they do not admit, and for effecting the payment of which no measure of coercion can ever be resorted to, is not likely to answer any useful purpose, but, on the contrary, is calculated to occasion perpetual disquiet, as well to the creditor as to the debtor States. Under this, and every other view of the subject that they have been able to take, the committee are impressed with an opinion that it is advisable to extinguish the claim of the United States for the balances of those States who have declined accepting the terms of payment proposed by the act of Congress, passed on the 15th day of February, 1799.

INSURRECTION IN PENNSYLVANIA.

[Communicated to Congress, Dec. 5, 1799, by Message from the President of the United States.]

Letter from the District Judge of Pennsylvania,
PHILADELPHIA, March 11, 1799.

SIR: I cannot longer omit transmitting to you some documents which are enclosed, showing that a daring combination, and treasonable opposition to the laws of the United States, has recently been brought to a crisis, in Northampton county, in this district. I had some time ago issued my warrants against sundry offenders in that county who had been charged, on oath, with misdemeanors in entering into unlawful combinations to re-

Insurrection in Pennsylvania.

sist the law commonly called the house-tax law, and rendering it unsafe for the officers appointed under that act to perform their duties. The Marshal endeavored to execute my warrants, and had proceeded in the business as far as is related in the papers enclosed. The result may be gathered from these papers. But I have directed the Marshal to make a more accurate statement, which, with other proofs I daily expect, I will transmit. I shall proceed, when furnished with the necessary testimony, to issue warrants against those who took up arms and rescued the prisoners. But I fear the process cannot be executed without a military force: this, at least, seems to be probable from the opinions given in the enclosed papers, and from the facts therein stated. The same spirit exists in some parts of Montgomery and Bucks counties, though it has not yet arrived to the violent extreme exhibited in Northampton. I shall issue a number of warrants against offenders in those latter counties forthwith; and if any resistance should there happen, I will duly inform you, that you may lay the information before the President, to whom, I pray you, to transmit that herein given.

I have the honor to be, very respectfully, your obedient servant,

RICHARD PETERS,
Judge of the Pa. District, U. S.
Colonel TIMOTHY PICKERING,
Secretary of State.

Report of the Marshal of the District of Pa.

PHILADELPHIA, March 11, 1799.

SIR: On the 20th of February last the honorable Richard Peters, Esq. issued warrants against sundry persons residing in the county of Northampton, who had given opposition to the execution of the law of the United States laying a tax on lands and houses, and a number of subpoenas for witnesses there and in the county of Montgomery. The writs were put into my hands on the 23d; on the 26th I set out, and got to Norris-town that night; on the next morning (the 27th) I set out from thence, and on that day served all my subpoenas in Montgomery, and on the 28th got to Emaus, in Northampton county. I was informed there that an express had arrived from Philadelphia with despatches informing them of my business, which created some alarm amongst the people in opposition in Millerstown and its vicinity. A meeting of a troop of horse was called there, of which a Mr. Jarrett, a Justice of the Peace, was the Captain. Messengers were sent to various places for purposes of which I was unacquainted. Next day I proceeded to Nazareth, saw Judge Henry and Mr. Eyerly, and on Saturday morning, the 2d instant, Mr. Eyerly and I rode into Lehigh township, where I arrested eleven persons, and on the next day took security from them that they would appear at Bethlehem, at the public inn, on Thursday morning, the 7th instant, to march with me to the city of Philadelphia, there to enter into recognizance to appear at the next circuit court to answer, &c. Five others

came in and signed the obligation. This being accomplished, we came to Bethlehem; set out for Macungy township in company with Colonel Stephen Balliot. We lodged that night at Emaus; next morning, the 5th instant, we set out for Millerstown; on our way I stopped at the house of George Seider to serve a subpoena on him as a witness on the part of the United States. His wife came to the door; on being asked for her husband, she abused me and the gentlemen with me. He came to the door, (with a club in his hand, of green oak, which seemed to have been procured for the occasion,) and called us every abusive name the German language can afford, refusing at the same time the subpoena. I gave it into the hands of a person present, who afterwards gave it to him, and rode on. When we got near Millerstown, we observed people assembling from all quarters; in some instances two men riding on one horse. This, from the conduct of Seider, led to a belief that an opposition was intended to be made to the arresting of any of the offenders against the laws of the United States in that place. We left our horses at Mr. Buskirk's, (a German clergyman near the town,) and walked in. We went first to the house of George Schaffer, one of the worst offenders. We were there informed that he had gone the day before to Philadelphia. We then went to the house of Henry Shankweiler, where we found upwards of fifty men (chiefly armed with clubs,) prepared to prevent the execution of the law. Shankweiler was shown to me; as I advanced towards him, he retreated into the midst of the crowd. I, however, arrested him; he refused to submit to the arrest; the mob swore that, before he should be taken, they would, to a man, fight till they died; that he should not submit; he swore he never would; he would die first. I explained to them the consequence of resisting; he swore he did not care if it cost him his life and all his property, even to the destruction of his family, he would not. Upon which, Jacob and Daniel Schaffer, brothers of the aforementioned Henry Schaffer, a young man of the name of Schwartz, who tore the cockade from Col. Balliot's hat, and many others whom I did not know, nor could find any person who would furnish me with their names, rushed on in the most violent torrent of abuse, threatening vengeance, particularly against Eyerly and Balliot, calling to each other, "strike, strike!" all desirous that some one might begin the affray. I desired Shankweiler to quiet those people, to keep them off. He desired them not to hurt the Marshal; but Eyerly and Balliot, he said, were damned rascals. I informed him and his people that those gentlemen were under my protection; that I would protect them; and showed some little resolution, which seemed to strike terror into them; upon which they gave way, and the gentlemen got out of the house. It is my opinion that if one single blow had been struck the whole of the rascals would have fallen on, and we three should have been killed. Shankweiler, however, before I left him, promised to meet me on Thursday morning at Bethlehem,

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but without a promise of submission. We went from thence to Jeremiah Trexler's; lodged there that night. Next morning I hired a constable to go with and show me the persons of Daniel Harvey, Adam Stephen, and Herman Hortman, whom I arrested, and obtained their promise to meet me on the morning after at Bethlehem. Hortman was insolent, disputed my authority, but submitted. I returned to Trexler's; was there informed that a rescue of the prisoners, as soon as I had them assembled, was intended. Mr. Eyerly, Mr. Balliot and I, returned to Bethlehem, where Judge Henry gave us the same information. I then called a *posse comitatus* of about fourteen men to my aid in support of the authority of the United States, who attended unarmed. About 11 o'clock in the forenoon of Thursday, two men came into the yard of the public inn. One had a large duck gun, and the other a rifle. After some conversation with them I disarmed and confined them, concluding that if all the rescuers came in that scattered and unmilitary manner, a good account might be given of them.

After some time, up came Shankweiler of Millerstown, with William Desh, Jacob Cline, and David Scheffer, three of Captain Jarrett's troop of horse; I asked him if he had come to surrender himself to me, and submit to the laws of the United States? He impudently answered no, and kept rather behind the horsemen. I asked him for what purpose he came? He answered, to see his partner, (meaning his accuser.) I commanded him to submit; he refused in the most positive manner. After some time a person came up, informing us that, a large body of men, horse and foot, were assembled, armed with guns, swords, and pistols, at the Lehigh bridge, in a hostile manner; on which information, I sent down John Mulhaddon, Esq., Major William Burnett, Isaac Hartzell, and Christian Rhodt, two of whom were supposed to be in the confidence of the people in arms, to ask of them their object, whether it was a rescue, and to warn them of the danger of such an attempt. They went down, spoke with them, and returned with reports unfavorable, which were that a rescue was intended, that I must submit to their will, and release the prisoners, or the consequences would be such as they would not be answerable for. I absolutely refused, and showed them the writs. They then offered to give bail to me to attend the court. I informed them that I was an executive officer only, that I must strictly obey the commands of the writs, that I could not take bail, desired them to go back and state this to their people in arms, that if they attempted a rescue, it would be punished severely. This they treated with contempt, and boasted of their strength. I asked them if they knew the power and strength of the United States, and the danger of resisting the authority thereof; that punishment would most assuredly follow any indignity offered to them. They went off, and returned with three of the insurgents, who came to demand a surrender of the prisoners, but who were too ignorant to inform me of the object they had in view. I informed them of my

determination; then the whole body of them marched up immediately, the horsemen and officers of the infantry with swords drawn; the infantry marched with trailed arms and surrounded the house, and seemed to be without an officer of their own corps to command them. The whole troops seemed to be under the command of a Captain Fries, of Bucks county. Fries made himself conspicuous on the occasion; he said he was the commanding officer, the oldest captain; he insisted on all the prisoners being set at large. This I refused, and continued to refuse, notwithstanding their threats, till I was informed that their resentment against Judge Henry, Colonel Balliot, and Mr. Eyerly, was great, that their lives were in danger unless an immediate surrender was made; I then informed the prisoners that I could not resist longer the force against me, but that I dared not give up the prisoners. I desired the prisoners to march with me for Philadelphia; and added, that if those people chose to rescue them, they might, and take the consequence. The prisoners of Lehigh township refused to march, declaring that, if I would suffer them to go home for the present, they would meet me at Philadelphia, on the Monday and Tuesday next following, and submit to the laws. Previous to this, I had entreated Captain Jarrett, who was present and armed with pistols, to use his influence, to prevent their doing a thing so improper and dangerous to themselves. He answered, that he could do nothing with them, till he saw all the prisoners were given up to them. He then said, Now I will take away my people, which he did in perfect order. Fries prepared his, returned and asked for Eyerman, the priest; he said he must be given up, that his people would not march without him. I assured him that he had been surrendered with the other prisoners; on which assurance he went out, found the priest, and then marched. By this time night was fast approaching. I feared these ungovernable men might do things in the dark which they would avoid in the light; therefore agreed, for the safety of the gentlemen, to give the prisoners up. Upon the whole of my observations, I am well satisfied, in my own mind, that the laws of the United States cannot be executed by the officers of the Government throughout the county of Northampton, without military aid; the people are determined to resist; they calculate largely on their strength in this State, and the aid they will have from the neighboring States, and particularly that of Virginia.

I have the honor, sir, to be your most obedient, humble servant,

WILLIAM NICHOLS.

TIMOTHY PICKERING, Esq., *Sec. of State.*

Deposition of Valentine Fuhrer.

STATE OF PENNSYLVANIA, *Northampton county, ss:*

Before me, Joseph Horsfield, Esq., one of the justices of the peace, personally appeared, Valentine Fuhrer, of Bethlehem, in the said county, toll receiver of the bridge across Lehigh, who, on his solemn affirmation, duly administered according to

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law, doth declare and say, that on the 7th day of March, about noon, a number of men, unknown to affirmant, came to the bridge gate and told affirmant, that a party of armed men would come soon; that they were much enraged; that they advised him to leave the bridge gate open, otherwise they would break through. Affirmant, on seeing the armed horse and footmen, opened the gate, and left the passage free till evening. Affirmant thinks about eighty horsemen, some armed and some unarmed, passed over the bridge; and about eighty footmen, all armed either with guns or clubs, also passed across; that after all the horse and foot had passed the bridge, Mr. Henry Jarrett also crossed. In about four or five hours all the horse and foot returned, without paying any toll, except Mr. Henry Jarrett, who offered to pay for himself and the red coats, which were about ten or twelve horsemen, and paid three quarters of a dollar to affirmant; and further he saith not.

VALENTINE FUHRER.

Affirmed before me, on the 9th March, 1799.

JOSEPH HORSFIELD.

Deposition of Jacob Eyerly and Stephen Balliot.

PENNSYLVANIA, *Northampton county, ss.*

Before the subscriber, one of the Judges of the Court of Common Pleas, in and for said county, on the 8th day of March, A. D., 1799, personally came Jacob Eyerly, Esq., one of the commissioners of the direct tax, and Stephen Balliot, Esq., collector of the revenue, &c.; the said Jacob Eyerly having made solemn affirmation according to law, and the said Stephen Balliot having made solemn oath according to law, do depose, declare, and say, that they set out from Bethlehem on the 5th instant, in company with Colonel William Nichols, Marshal of the United States for the district of Pennsylvania, who intended to serve several subpoenas and warrants issued by the Judge of the District Court; that the Marshal, upon the road to Millerstown, served a subpoena upon a certain George Seider, who, when he was called upon, came to the door with a club, and called the Marshal and these deponents highway robbers, thieves, rascals, and scoundrels, and spoke other very abusive language, and would not receive the copy of the subpoena; that the Marshal handed the copy to a certain Daniel Schwartz, who was present with the said Seider; that we rode on from there to Millerstown, where the Marshal and these deponents entered the house of Henry Shankweiller to serve a warrant upon him; here we found at least fifty men collected in his bar-room, among others the abovenamed George Seider, with a club; that, upon the arrestation of said Shankweiller, Jacob Shaeffer and David Shaeffer, with others whom the deponents do not know, came in the most violent and threatening manner close up to the deponents and the Marshal, and in a most violent manner threatened to beat and otherwise did abuse the deponents, and declared, that if the Marshal dared to take off said Shankweiller, they would fight to the last. And further, that said Shankweiller did declare he would not submit;

but, upon the Marshal's representing to him the consequences, he said whatever Jarrett (meaning Henry Jarrett) did he would do; that the Marshal endeavored to get a man from the neighborhood who should know the persons so collected, but could procure nobody else to accompany him; that the people of the neighborhood consider themselves in imminent danger of their lives by appearing in favor of the Government; that previous to the return of the deponents with the Marshal to Bethlehem, they had received information which induced them to believe there would be some attempts be made to rescue the prisoners either at Bethlehem or on the road.

That yesterday, the 7th of March, the Marshal having collected about eighteen of the prisoners in a quiet and peaceable manner, at the house of Abraham Levering, tavern keeper, in the town of Bethlehem, during the morning of said day, a number of men, partly horsemen and foot, collected at the said house; the first few that came within reach were disarmed, but the prisoners who had been arrested in and about Millerstown, in Macungy township came up to the said house in company with a number of horsemen, armed with pistols and swords; that, in a short time after, a number of other horsemen, well armed, partly in uniform, came up; about half an hour after came up also to the said house two parties of men on foot, well armed; upon the whole, we suppose to the amount of about or between eighty and one hundred; that there were various and numerous threats made that if the prisoners were not released they would proceed to violence. And further, that your deponents are fully assured that the laws of the United States cannot be executed under the present circumstances, as it is every day becoming more and more dangerous throughout all that part of the county of Northampton called Macungy, and Upper Milford, and several other places. And further saith not.

JACOB EYERLY,

STEPHEN BALLIOT.

Affirmed by the said Jacob Eyerly, and sworn by the said Stephen Balliot, and subscribed before me.

WILLIAM HENRY.

By the President of the United States of America.

A PROCLAMATION.

Whereas, combinations to defeat the execution of the laws for the valuation of lands and dwelling-houses, within the United States, have existed in the counties of Northampton, Montgomery and Bucks, in the State of Pennsylvania, and have proceeded in a manner subversive of the just authority of the Government, by misrepresentations, to render the laws odious, by deterring the public officers of the United States to forbear the execution of their functions, and by openly threatening their lives: And whereas, the endeavors of the well-affected citizens, as well as of the Executive officers, to conciliate a compliance with those laws, have failed of success; and certain persons in the county of Northampton aforesaid have been hardy enough

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to perpetrate certain acts, which I am advised amount to treason, being overt acts of levying war against the United States, the said persons exceeding one hundred in number, and armed and arrayed in a warlike manner, having, on the 7th day of this present month of March, proceeded to the house of Abraham Levering, in the town of Bethlehem, and there compelled William Nichols, Marshal of the United States in and for the district of Pennsylvania, to desist from the execution of certain legal process in his hands to be executed, and having compelled him to discharge and set at liberty certain persons whom he had arrested by virtue of criminal process, duly issued for offences against the United States, and having impeded and prevented the commissioner and the assessors, appointed in conformity with the laws aforesaid, in the county of Northampton aforesaid, by threats and personal injury, from executing the said laws; avowing, as the motives of these illegal and treasonable proceedings, an intention to prevent, by force of arms, the execution of the said laws, and to withstand, by open violence, the lawful authority of the Government of the United States: And whereas, by the Constitution and laws of the United States, I am authorized, whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals, to call forth military force to suppress such combinations, and to cause the laws to be duly executed: And whereas, it is, in my judgment, necessary to call forth military force, in order to suppress the combinations aforesaid, and to cause the laws aforesaid to be duly executed; and I have accordingly determined so to do, under the solemn conviction that the essential interests of the United States demand it: Wherefore, I, John Adams, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before Monday next, being the 18th day of this present month, to disperse and retire peaceably to their respective abodes; and I do moreover warn all persons whomsoever against aiding, abetting, or comforting the perpetrators of the aforesaid treasonable acts; and I do require all officers and others, good and faithful citizens, according to their respective duties and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous and unlawful proceedings.

In testimony whereof, I have caused the seal of the United States of America to be affixed [L. s.] to these presents, and signed the same with my hand.

Done at the city of Philadelphia, the 12th day of March, in the year of our Lord 1799, and of the independence of the United States of America the twenty-third.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING,
Secretary of State.

Letter from the Secretary of War to the Governor of Pennsylvania.

WAR DEPARTMENT, March 20, 1799.

SIR: To suppress the insurrection now existing in the counties of Northampton, Bucks, and Montgomery, in the State of Pennsylvania, in opposition to the laws of the United States, the President has thought it necessary to employ a military force, to be composed, in part, of such of the militia of Pennsylvania, whose situation and state of preparation will enable them to march with promptitude. The corps of militia first desired on this occasion are the troops of cavalry belonging to this city, and one troop from each of the counties of Philadelphia, Bucks, Chester, Montgomery, and Lancaster: These troops I have the honor to request your Excellency will order to hold themselves in readiness to march on or before the 28th instant, under the command of Brigadier General McPherson.

I have the honor to be, with great respect, sir, your obedient servant,

JAMES MCHENRY.

His Excellency Governor MIFFLIN.

Instructions to General McPherson.

WAR DEPARTMENT, March 21, 1799.

SIR: In pursuance of the President's proclamation, bearing date 12th day of this month, it has become indispensable to determine upon and put in motion the military force proper to be employed for suppressing the insurrection in the counties of Northampton, Montgomery, and Bucks, in this State.

You will therefore be pleased to form a detachment from the volunteers, who have associated in the State of Pennsylvania, and been accepted by the President, as a part of the provisional army, to consist of the two volunteer companies of cavalry of the city of Philadelphia, to which you will add two more of the troops of militia cavalry of the same city, now under orders to hold themselves in readiness to march, so as to compose a body of two hundred and forty horse, including non-commissioned officers, and proceed with the detachment, without delay, to the theatre of insurrection.

You will forthwith make returns of such articles as may yet be wanted for this detachment, that the necessary orders may be given for their delivery.

A paymaster for the volunteers and militia that may be employed ought to be appointed. You will please to name one, who will be advanced a sum, on account, equal to one month's pay, for the companies now called into service.

You will cause correct muster and pay-rolls for the volunteers and militia called into actual service, in the usual forms, to be made out, with the view of rendering the settlement of the accounts for their services prompt and easy.

The quartermaster of the detachment, who will be appointed by the Quartermaster General, will receive in advance from the Quartermaster General a sum on account, which may be conceived adequate to the expenditure that may be incurred in this particular department.

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Rations will be furnished by the contractors for supplying the same to the military within the State of Pennsylvania. It is presumed he will employ a proper agent or agents, and execute your orders with precision respecting provisions.

Doctor Joseph Strong will attend the expedition, in quality of surgeon, furnished with a competent supply of medicines and instruments.

As one object of the expedition is to assist the Marshal of the District to make prisoners of, and hold amenable to justice, persons who have either resisted the service of legal process, or been concerned in rescuing from him those who were in his lawful custody, or for whom he may have process on other charges, and to conduct the prisoners to Philadelphia, you will perceive the propriety of applying your cavalry, in the manner best calculated, consistently with the safety of the detachment, to secure as many of the offenders at the same moment as possible.

You will inform the Quartermaster General and the contractor of the precise time you design to put the detachment in motion, and make them acquainted with whatever it may be necessary for them to know, previously, in order to insure, as much as possible, no failure in your operations, from the want of means in either of their departments.

The Marshal of the District of Pennsylvania will move with you, and give you the names of the offenders, their descriptions, and respective places of abode, who are to be made prisoners under criminal process. You will be particularly careful that the most criminal, or the ringleaders, be attended to, and in preference secured, and to prevent, by the most pointed orders, any insult to the inhabitants, or unnecessary rigor towards the prisoners taken.

It is left entirely to your discretion to determine upon your place or places of rendezvous, which should be such as are best calculated to enable the troops that may be stationary to defend themselves in case of attack, and also to aid as effectually as possible your parties of horse in their transit to and from their points of departure.

You will have observed that is designed to give to the volunteer and militia cavalry selected by you a principal agency in suppressing the existing combinations against the laws, and of quelling an insurrection and rebellion against the Government and rightful authority of their country, at a time when its sovereignty and liberties are threatened by a powerful, implacable, and insidious nation, who have been accustomed to divide and conquer other nations. It is not doubted, therefore, but that they will exhibit a useful example upon this service of military promptitude, spirit, vigilance, discipline, and obedience of orders.

To be prepared for adverse contingencies, it will be proper that you continue the orders for holding themselves in readiness to march, at the shortest notice, to the volunteer companies and militia not immediately called into actual service.

To cover the active operations of the volunteer and militia cavalry, a company of infantry, under Captain Shoemaker, and a company of artillerists

under Captain Irwin, from Carlisle, Pennsylvania, have been ordered to march and rendezvous at Reading; and a company of artillerists at Fort Mifflin, intended to rendezvous at the same place, is under orders to march at the shortest notice. Two companies of artillerists, from New York, and a party of infantry, recruits under Lieutenant Boote, supposed about thirty, from New Brunswick, New Jersey, have been ordered to march to Newtown, Pennsylvania: these latter troops are on the establishment of the United States; expected to arrive at their first places of rendezvous on or about the 23d instant, and subject to your orders, to be stationed where their presence can produce the best effects, and employed in case circumstances should require their actual co-operation with the volunteers and militia.

If rebellion should acquire a strength demanding further force, you are, using a sound discretion, and keeping economy in view, fully authorized by the President to call into actual service the whole or any part of the volunteer and militia companies that have been ordered to be held in readiness in the States of Pennsylvania and New Jersey.

It is expected that the detachment of volunteers and militia will be pushed forward, as rapidly as the season and roads will permit to the point or points you may think proper to occupy with the regular troops, and to which your capturing parties may be instructed to conduct their prisoners.

You are earnestly requested to employ every moment of your time in accomplishing the objects of your command, conformably to these orders, and to keep constantly in mind that, if the offenders against the laws can be suddenly and unexpectedly secured, before they have time to prepare general resistance, it may extinguish the insurrection, without further expense to the United States, or call upon the patriotism or fortitude of our fellow citizens. That you may have sufficient assistance in your own family to meet the eventual business the service may impose upon you, it is permitted to you to appoint a volunteer aid-camp, (should you conceive one to be necessary,) in addition to the aid allowed you by law, and to draw for him and his servant rations and forage.

You will be able to judge accurately upon the spot when opposition to the laws, and the spirit of revolt and insurrection, are so far suppressed in the disaffected counties as to admit the whole or part of the volunteers and militia to return to their homes and civil occupations. This will be ascertained when the inhabitants shall quietly permit the commissioners and assessors of the tax on land and houses to perform their respective duties according to law. Until this shall be the state of those counties, it will be proper to continue the military force there in convenient positions to produce a perfect submission to the authority of the United States.

I have the honor to be, with great respect, sir,
your most obedient, humble servant,

JAMES McHENRY.

WM. MACPHERSON, Esq.,
Brigadier General.

Oration on the Death of General Washington.

ORATION ON THE DEATH OF GENERAL WASHINGTON.

[Communicated to the House of Reps., Dec. 30, 1799.]

PHILADELPHIA, Dec. 27, 1799.

DEAR SIR: The enclosed resolutions, which unanimously passed the House of Representatives to-day, will make known to you how highly they have been gratified with the manner in which you have performed the service assigned to you, in preparing and delivering a funeral oration on the death of General WASHINGTON. That our constituents may participate in the gratification we have received, from your having so well expressed those sentiments of respect for the character, of gratitude for the services, and of grief for the death, of that illustrious personage, I flatter myself you will not hesitate to comply with the request of the House, by furnishing a copy of your oration, to be taken for publication.

Allow me, while performing this pleasing task of official duty, in communicating an act of the Representatives of the people, so just to you and so honorable to themselves, to embrace the opportunity to declare that I am, personally, with great esteem and sincere regard, dear sir, your friend and obedient servant,

THEODORE SEDGWICK.

Hon. Major Gen. LEE.

FRANKLIN COURT, Dec. 28, 1799.

DEAR SIR: I owe to the goodness of the House of Representatives the honor which their resolutions confer on my humble efforts to execute their wish.

I can never disobey their will, and therefore will furnish a copy of the oration delivered on the late afflicting occasion, much as I had flattered myself with a different disposition of it.

Sincerely reciprocating the personal considerations with which you honor me, I am, very respectfully, sir, your friend and obedient servant,

HENRY LEE.

The SPEAKER of the House of Reps.

In obedience to your* will, I rise, your humble organ, with the hope of executing a part of the system of public mourning which you have been pleased to adopt, commemorative of the death of the most illustrious and most beloved personage this country has ever produced; and which, while it transmits to posterity your sense of the awful event, faintly represents your knowledge of the consummate excellence you so cordially honor.

Desperate, indeed, is any attempt on earth to meet correspondently this dispensation of Heaven; for, while, with pious resignation, we submit to the will of an all-gracious Providence, we can never cease lamenting in our finite view of Omnipotent Wisdom, the heart-rending privation for which our nation weeps. When the civilized world shakes to its centre; when every moment gives

birth to strange and momentous changes; when our peaceful quarter of the globe, exempt as it happily has been from any share in the slaughter of the human race, may yet be compelled to abandon her pacific policy, and to risk the doleful casualties of war, what limit is there to the extent of our loss? None within the reach of my words to express; none which your feelings will not disavow.

The founder of our federate Republic, our bulwark in war, our guide in peace, is no more. Oh that this was but questionable! Hope, the comforter of the wretched, would pour into our agonized hearts its balmy dew. But, alas! there is no hope for us; our WASHINGTON is removed forever. Possessing the stoutest frame, and purest mind, he had passed nearly to his sixty-eighth year, in the enjoyment of high health; when, habituated by his care of us to neglect himself, a slight cold, disregarded, became inconvenient on Friday, oppressive on Saturday, and defying every medical interposition, before the morning of Sunday put an end to the best of men. An end did I say? his fame survives! bounded only by the limits of earth, and by the extent of the human mind. He survives in our hearts, in the growing knowledge of our children, in the affection of the good throughout the world; and when our monuments shall be done away, when nations now existing shall be no more, when even our young and far-spreading empire shall have perished, still will our WASHINGTON's glory unfaded shine, and die not, until love of virtue cease on earth, or earth itself sink into chaos.

How, my fellow-citizens, shall I single to your grateful hearts his pre-eminent worth? Where shall I begin in opening to your view a character throughout sublime? Shall I speak of his warlike achievements, all springing in obedience to his country's will—all directed to his country's good?

Will you go with me to the banks of the Monongahela, to see your youthful WASHINGTON, supporting, in the dismal hour of Indian victory, the ill-fated Braddock, and saving, by his judgment and by his valor, the remains of a defeated army, pressed by the conquering savage foe? Or, when oppressed America, nobly resolving to risk her all in defence of her violated rights, he was elevated, by the unanimous voice of Congress, to the command of her armies? Will you follow him to the high grounds of Boston, where, to an undisciplined, courageous, and virtuous yeomanry, his presence gave the stability of system, and infused the invincibility of love of country? Or shall I carry you to the painful scenes of Long Island, York Island, and New Jersey; when, combatting superior and gallant armies, aided by powerful fleets, and led by chiefs high in the roll of fame, he stood the bulwark of our safety; undismayed by disaster; unchanged by change of fortune? Or will you view him in the precarious fields of Trenton, where deep gloom, unnerving every arm, reigned triumphant through our thinned, worn down, unaided ranks, himself unmoved? Dreadful was the night—it was about this time of

* The two Houses of Congress.

Oration on the Death of General Washington.

Winter; the storm raged; the Delaware rolling furiously with floating ice, forbade the approach of man. WASHINGTON, self-collected, viewed the tremendous scene; his country called; unappalled by surrounding dangers, he passed to the hostile shore; he fought; he conquered. The morning sun cheered the American world. Our country rose on the event; and her dauntless Chief, pursuing his blow, completed in the lawns of Princeton what his vast soul had conceived on the shores of Delaware.

Thence to the strong ground of Morristown he led his small but gallant band; and through an eventful Winter, by the high efforts of his genius, whose matchless force was measurable only by the growth of difficulties, he held in check formidable hostile legions, conducted by a chief experienced in the art of war, and famed for his valor on the ever-memorable Heights of Abraham, where fell Wolfe, Montcalm, and since our much-lamented Montgomery, all covered with glory. In this fortunate interval, produced by his masterly conduct, our fathers, ourselves, animated by his resistless example, rallied around our country's standard, and continued to follow her beloved Chief through the various and trying scenes to which the destinies of our Union led.

Who is there that has forgotten the vales of Brandywine, the fields of Germantown, or the plains of Monmouth? Everywhere present, wants of every kind obstructing, numerous and valiant armies encountering, himself a host, he assuaged our sufferings, limited our privations, and upheld our tottering Republic. Shall I display to you the spread of the fire of his soul, by rehearsing the praises of the hero of Saratoga, and his much-loved compeer of the Carolinas? No; our WASHINGTON wears not borrowed glory. To Gates—to Green—he gave without reserve the applause due to their eminent merit; and long may the Chiefs of Saratoga and of Eutaw receive the grateful respect of a grateful people.

Moving in his own orbit, he imparted heat and light to his most distant satellites; and combining the physical and moral force of all within his sphere, with irresistible weight he took his course, commiserating folly, disdaining vice, dismaying treason, and invigorating despondency, until the auspicious hour arrived; when, united with the intrepid forces of a potent and magnanimous ally, he brought to submission the since conqueror of India; thus finishing his long career of military glory with a lustre corresponding to his great name, and in his last act of war affixing the seal of fate to our nation's birth.

To the horrid din of battle sweet peace succeeded; and our virtuous Chief, mindful only of the common good, in a moment tempting personal aggrandizement, hushed the discontents of growing sedition, and surrendering his power into the hands from which he had received it, converted his sword into a ploughshare, teaching an admiring world that to be truly great you must be truly good.

Were I to stop here, the picture would be incomplete, and the task imposed unfinished. Great

as was our WASHINGTON in war, and much as did that greatness contribute to produce the American Republic, it is not in war alone his pre-eminence stands conspicuous; his various talents, combining all the capacities of the statesman with those of the soldier, fitted him alike to guide the councils and the armies of the nation. Scarcely had he rested from his martial toils, while his invaluable parental advice was still sounding in our ears, when he, who had been our shield and our sword, was called forth to act a less splendid but a more important part.

Possessing a clear and penetrating mind, a strong and a sound judgment, calmness and temper for deliberation, with invincible firmness and perseverance in resolutions maturely formed, drawing information from all, acting from himself, with incorruptible integrity and unvarying patriotism; his own superiority and the public confidence alike marked him as the man designed by Heaven to lead in the great political as well as military events which have distinguished the era of his life.

The finger of an overruling Providence, pointing at WASHINGTON, was neither mistaken nor unobserved; when, to realize the vast hopes to which our Revolution had given birth, a change of political system became indispensable.

How novel—how grand the spectacle! independent States stretched over an immense territory, and known only by common difficulty, clinging to their Union as the rock of their safety, deciding, by frank comparison of their relative condition, to rear on that rock, under the guidance of reason, a common Government, through whose commanding protection, liberty and order, with their long train of blessings, should be safe to themselves, and the sure inheritance of their posterity.

This arduous task devolved on citizens selected by the people, from knowledge of their wisdom and confidence in their virtue. In this august assembly of sages and of patriots, WASHINGTON, of course, was found; and, as if acknowledged to be the most wise, where all were wise, with one voice he was declared their Chief. How well he merited this rare distinction, how faithful were the labors of himself and his compatriots, the work of their hands and our Union, strength and prosperity, the fruits of that work, best attest.

But to have essentially aided in presenting to his country this consummation of her hopes, neither satisfied the claims of his fellow-citizens on his talents, nor those duties which the possession of those talents imposed. Heaven had not infused into his mind such an uncommon share of its ethereal spirit to remain unemployed, nor bestowed on him his genius unaccompanied with the corresponding duty of devoting it to the common good. To have framed a Constitution, was showing only, without realizing the general happiness. This great work remained to be done, and America, steadfast in her preference, with one voice summoned her beloved WASHINGTON, unpractised as he was in the duties of civil administration, to execute this last act in the completion of the na-

Oration on the Death of General Washington.

tional felicity. Obedient to her call, he assumed the high office with that self-distrust peculiar to his innate modesty, the constant attendant of pre-eminent virtue. What was the burst of joy through our anxious land on this exhilarating event, is known to us all. The aged, the young, the brave, the fair, rivalled each other in demonstrations of their gratitude; and this high-wrought delightful scene was heightened in its effect by the singular contest between the zeal of the bestowers, and the avoidance of the receiver of the honors bestowed. Commencing his administration, what heart is not charmed with the recollection of the pure and wise principles announced by himself, as the basis of his political life. He best understood the indissoluble union between virtue and happiness, between duty and advantage, between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and individual felicity; watching with an equal and comprehensive eye over this great assemblage of communities and interests, he laid the foundation of our national policy in the unerring, immutable principles of morality, based on religion, exemplifying the pre-eminence of free Government, by all the attributes which win the affections of its citizens, or command the respect of the world:

"O fortunatos nimium, sua si bona norint!"

Leading through the complicated difficulties produced by previous obligations and conflicting interests, seconded by succeeding Houses of Congress, enlightened and patriotic, he surmounted all original obstructions, and brightened the path of our national felicity.

The Presidential term expiring, his solicitude to exchange exaltation for humility returned with a force increased with increase of age, and he had prepared his Farewell Address to his countrymen, proclaiming his intention, when the united interposition of all around him, enforced by the eventful prospects of the epoch, produced a further sacrifice of inclination to duty. The election of President followed; and WASHINGTON, by the unanimous vote of the nation, was called to resume the Chief Magistracy. What a wonderful fixture of confidence! Which attracts most our admiration—a people so correct, or a citizen combining an assemblage of talents forbidding rivalry, and stifling even envy itself? Such a nation ought to be happy; such a Chief must be forever revered.

War, long menaced by the Indian tribes, now broke out; and the terrible conflict, deluging Europe with blood, began to shed its baneful influence over our happy land. To the first, outstretching his invincible arm, under the orders of the gallant Wayne, the American eagle soared triumphant through distant forests. Peace followed victory, and the melioration of the condition of the enemy followed peace. Godlike virtue! which uplifts even the subdued savage.

To the second he opposed himself. New and delicate was the conjuncture, and great was the stake. Soon did his penetrating mind discern

and seize the only course; continuing to us all the felicity enjoyed. He issued his proclamation of neutrality. This index to his whole subsequent conduct, was sanctioned by the approbation of both Houses of Congress, and by the approving voice of the people.

To this sublime policy he inviolably adhered, unmoved by foreign intrusion, unshaken by domestic turbulence.

"Justum et tenacem propositi virum,
"Non civium ardor prava jubentium,
"Non vultus instantis tyranni
"Mente quati solidâ."

Maintaining his pacific system at the expense of no duty, America, faithful to herself, and unstained in her honor, continued to enjoy the delights of peace, while afflicted Europe mourns in every quarter, under the accumulated miseries of an unexampled war; miseries in which our happy country must have shared, had not our pre-eminent WASHINGTON been as firm in the council as he was brave in the field.

Pursuing steadfastly his course, he held safe the public happiness, preventing foreign war, and quelling internal discord, till the revolving period of a third election approached, when he executed his interrupted but inextinguishable desire of returning to the humble walks of private life.

The promulgation of his fixed resolution stopped the anxious wishes of an affectionate people from adding a third unanimous testimonial of their unabated confidence in the man so long enthroned in their hearts. When, before, was affection like this exhibited on earth? Turn over the records of ancient Greece; review the annals of mighty Rome; examine the volumes of modern Europe—you search in vain. America and her WASHINGTON only afford the dignified exemplification.

The illustrious personage called by the national voice in succession to the arduous office of guiding a free people, had new difficulties to encounter; the amicable effort of settling our difficulties with France, begun by WASHINGTON, and pursued by his successor, in virtue as in station, proving abortive, America took measures of self-defence. No sooner was the public mind roused by prospect of danger, than every eye was turned to the friend of all, though secluded from public view, and grey in public service; the virtuous veteran, following his plough,* received the unexpected summons with mingled emotions of indignation at the unmerited ill-treatment of his country, and of a determination once more to risk his all in her defence.

The annunciation of these feelings, in his affecting letter to the President accepting the command of the army, concludes his official conduct.

First in war—first in peace—and first in the hearts of his countrymen, he was second to none in the humble and endearing scenes of private life; pious, just, humane, temperate, and sincere;

* General WASHINGTON, though opulent, gave much of his time and attention to practical agriculture.

Mississippi Territory.

uniform, dignified, and commanding; his example was as edifying to all around him, as were the effects of that example lasting.

To his equals he was condescending, to his inferiors kind, and to the dear object of his affections exemplarily tender; correct throughout, vice shuddered in his presence, and virtue always felt his fostering hand; the purity of his private character gave effulgence to his private virtues.

His last scene comported with the whole tenor of his life. Although in extreme pain, not a sigh, not a groan escaped him; and with undisturbed serenity he closed his well-spent life. Such was the man America has lost; such was the man for whom our nation mourns.

Methinks I see his august image, and hear falling from his venerable lips these deep sinking words:

"Cease, sons of America, lamenting our separation; go on, and confirm by your wisdom the fruits of our joint councils, joint efforts, and common dangers; reverence religion; diffuse knowledge throughout your land; patronize the arts and sciences; let liberty and order be inseparable companions; control party spirit, the bane of free Governments; observe good faith to, and cultivate peace with, all nations; shut up every avenue to foreign influence; contract rather than extend national connexion; rely on yourselves only; be American in thought, word, and deed: thus will you give immortality to that Union, which was the constant object of my terrestrial labors; thus will you preserve, undisturbed, to the latest posterity, the felicity of a people to me most dear; and thus will you supply (if my happiness is now aught to you) the only vacancy in the round of pure bliss high Heaven bestows."

MISSISSIPPI TERRITORY.

[Communicated to the House of Reps., Feb. 18, 1800.]

Mr. CLAIBORNE, from the committee to whom was referred the petition of Cato West and others, styling themselves "a committee, regularly chosen by the inhabitants of the Mississippi Territory, for the purpose of petitioning for a redress of grievances," made, in part, the following report:

The petitioners state, that, from the vast interval which separates the Territory from the seat of the General Government, a knowledge of their interest and wishes being difficult to be ascertained, partial and inaccurate statements were too apt to acquire credit, and that of this stamp were the representations which have been made, in the name of the people, soliciting a Government similar to one which had been established in the Territory Northwest of the river Ohio.

That the Government which Congress had enacted for the Mississippi Territory was bad in theory and still worse in practice; the Executive, Legislative and Judicial authorities, so carefully separated and limited by the constitutions of the elder States, are here mingled together in the

hands of three or four individuals, who have but a partial interest in common with the people; and further, that the immense power thus conceded had neither been exercised with liberality nor beneficence, and that in some instances the provisions of the ordinance had been unattended to, and the Constitution of the United States violated.

To remedy these inconveniences, and to extend the fundamental principles of civil liberty, the petitioners solicit an amelioration of their present political system, and that Congress will enact that the ordinance of one thousand seven hundred and eighty-seven may immediately operate in its second grade in the *Mississippi Territory*, meaning that the people thereof may be allowed a Legislative Assembly.

Upon mature consideration of the premises, the committee are of an opinion that an amelioration of the present existing Government is dictated by justice and policy.

That the political maxim, so generally practised upon in the United States, "that the citizen should have a voice, by himself or his representative, in the framing of laws, and imposing of taxes," ought to be extended to the Mississippi Territory.

The committee find that, by the act of Congress, passed on the seventh of April, one thousand seven hundred and ninety-eight, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," the boundaries of the said Territory were defined, and the President of the United States authorized to establish therein a Government in all respects similar to that now exercised in the Territory Northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof, by the late Congress, on the thirteenth of July, one thousand seven hundred and eighty-seven.

That the President, soon after the passage of the act aforesaid, by and with the advice and consent of the Senate of the United States, appointed a Governor, Secretary, and three Judges, for the Mississippi district, who have entered upon the duties of their respective offices, and proceeded to the organization of the Government.

That in the ordinance referred to, in the before-mentioned act of Congress, the committee find the following provisions:

"*Be it ordained by the authority aforesaid*, That there shall be appointed, from time to time, by Congress, a Governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office."

"There shall be appointed, from time to time by Congress, a Secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the Legislature and the public records

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of the district, and the proceedings of the Governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress. There shall also be appointed a court, to consist of three Judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour. The Governor and Judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district, until the organization of the General Assembly therein, unless disapproved of by Congress, but afterwards the Legislature shall have authority to alter them, as they shall think fit. The Governor for the time being shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress, previous to the organization of the General Assembly; the Governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same; after the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly, but all magistrates and other civil officers not herein otherwise directed shall, during the continuance of this temporary government, be appointed by the Governor. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district; and for the execution of process, criminal and civil, the Governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which Indian titles shall have been extinguished, into counties and townships; subject, however, to such alterations as may hereafter be made by the Legislature.

"So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the Governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the General Assembly, provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the Legislature: *Provided*, That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee sim-

ple, two hundred acres of land within the same: *Provided, also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold, and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

"The representative thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the Governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

"The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the House of Representatives shall nominate two persons qualified as aforesaid for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of Council, the said House shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the Council five years, unless sooner removed. And the Governor, Legislative Council, and House of Representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the House, and by a majority in the Council, shall be referred to the Governor for his assent; but no bill or Legislative act whatever shall be of any force without his assent. The Governor shall have power to convene, prorogue, and dissolve the General Assembly, when in his opinion it shall be expedient."

The committee further report, that they have not been enabled to ascertain with certainty the number of citizens residing within the limits of the Mississippi district, but there are supposed to be about six thousand free people of all descriptions; that the free male inhabitants of full age, not being sufficient in number (under the ordinance) to authorize a General Assembly, the Legislative authority (subject to certain prescribed restrictions) is at this time vested in and exercised by the Governor and Judges.

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A Legislative Assembly organized upon the plan contemplated by the ordinance, when the number of free male inhabitants of full age amounted to five thousand, would, it is presumed, remove the principal cause of uneasiness, and be promotive of the general good.

For information as to the extent of population in the Mississippi Territory, the quality, quantity, and value of the exports, the wishes of the people for a change of government, and their supposed ability to meet the expense incident to a General Assembly, the committee beg leave to refer the House to two letters from Mr. N. Hunter hereto subjoined, (Nos. 1 and 2;) the petitioners prayed that Mr. Hunter might be accredited as their agent, and viewed as a character in whom entire confidence may be placed.

From a desire to attach the citizens of the Mississippi Territory permanently to the United States, to promote their political welfare and happiness, and to extend to them more ample security against political oppression, the committee submit the following resolutions:

1. *Resolved*, That so much of the ordinance for the government of the Territory of the United States Northwest of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory: *Provided*, That, until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives.

2. *Resolved*, That, until the number of free male inhabitants of full age in the Mississippi Territory shall amount to five thousand, the county of Adams shall be entitled to choose five representatives to the General Assembly, and the county of Pickering four.

3. *Resolved*, That the first election for Representatives to the General Assembly shall be on the — day of —, and that all subsequent elections shall be regulated by the Legislature.

4. *Resolved*, That it shall be the duty of the Governor of the Mississippi Territory to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

5. *Resolved*, That the Representatives shall be convened by the Governor on the — day of —.

6. *Resolved*, That so soon as the number of free male inhabitants, of full age, shall amount to or exceed five thousand, the number of Representatives to the General Assembly shall be determined, and the apportionment made, in the way prescribed in the ordinance.

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No. 1.

PHILADELPHIA, Feb. 4, 1800.

DEAR SIR: In your communication of the 26th of January, you inquire—

1st. "By what authority were Cato West and others chosen a committee? if by the people, at what period, in what manner, and for what purpose?"

A meeting was held by a number of the principal inhabitants, on the 6th day of July last, in order to confer upon the unhappy situation of the country, and, if possible, to devise a remedy. The result of this meeting was a circular letter drawn up by the conference, recommending to the several districts the scheme of a committee, which was to meet, with written instructions from their constituents, in order to inform the Governor of the true situation of the country, and petition for a redress of grievances. I have a copy of the circular letter, and the letters of instructions from the several districts.

2d. You inquire "what is the aggregate number of the free inhabitants of the Mississippi Territory, what proportion are natives of the United States, and what the number of our militia?"

Our Governor has never taken a census of the people, nor has he been able to organize the militia, so that we are much at a loss with respect to our numbers; I think, however, that we cannot have less than six thousand free inhabitants, and about two thousand capable of bearing arms: our people are mostly natives of the United States; there is not, perhaps, one-tenth of any other description.

3d. You inquire "whether the emigration to the Territory is great, and whether any of the citizens have lately removed to the Spanish dominions, and, if any, what seem to have been the inducements?"

The emigration to our country is at this time extremely limited; the impossibility of procuring lands by any other way than by purchase from individuals, and the facility with which lands are acquired in the Spanish dominions, forms an insuperable bar to the increase of our population; though men of property who have lately descended the river seem rather inclined to sacrifice a part of their property in the purchase of lands whereon to settle, than to avail themselves of the easy terms offered by the Spanish Government; but the poorer classes are impelled to go below.

An alarming depopulation took place last Winter under the patronage of Doctor White; we could never learn the exact number of families, but they were sufficiently numerous to form a considerable settlement below the line of which Doctor White is commandant. A number of the inhabitants have been selling out this Summer, and preparing to remove below at the end of the year. Various circumstances may have combined in producing this dereliction, but we do not hesitate to say that the morose, arbitrary contumacy of Governor Sargent are among the primary causes.

4th. You would know "the particular culture which occupies the attention of the planter of the Mississippi Territory, what are our articles of exportation, and what the supposed quantity and value?"

Cotton is at present the staple of the Territory, and is cultivated with singular advantage to the planter. We get one quarter of a dollar per pound for clean cotton, and an active planter will

Mississippi Territory.

make from five to eight hundred pounds weight to a hand; and, as I conceive we have as many black as white inhabitants, we cannot make much less than three millions of pounds of merchantable cotton, equal to seven hundred and fifty thousand dollars.

We are able to raise, at a small expense, great quantities of pork; but the price, for three or four years' past, has not been more than three and a half dollars; consequently, little has been raised. Our soil and climate seems peculiarly adapted to the growth of indigo, as well as cotton; and the sugar-cane thrives well in the lower part of the Territory. I am, dear sir, with great esteem, yours,

N. HUNTER,
Agent Mississippi Territory.

No. 2.

FEBRUARY 6, 1800.

DEAR SIR: I received your obliging note of the 3d instant; and while you have my sincere and hearty thanks for your vigilance and attention to the business of the Natchez, I shall make every exertion in my power to elucidate such parts of our petition and documents as may appear vague or ambiguous.

The estimate annexed to the petition of Cato West and others (mentioned in your note) is not "the amount of the tax laid on the county of Adams by a law of the Territory;" but it appears to be the sum which the Governor thought necessary to be raised in that county for the service of the last year; and it was sent by him to the first court of general quarter sessions in order to receive the sanction of that court. This would give it immediate currency, and necessarily operate in aid of his future projects of taxation.

But such a manifest prodigality of the public resources appeared upon the face of it, together with so marked an opposition to the public opinion, with regard to the place whereon the public buildings were to be erected, that it received the immediate disapprobation of the court; and I believe a similar instrument was never presented to the county of Pickering.

I would here beg leave to call your attention to the first address of the committee, to Governor Sargent, of the 26th of August. It is there stated that he had adopted and pursued improper measures; that he had given an exclusive confidence to a party; that his measures were calculated to give confidence to the insolence of faction, and to suffocate the germ of public virtue in the upright citizen. He was also told that most of the perplexities which had embarrassed him in his administration had undoubtedly flowed from this source; but anxious for a general accommodation, and animated with a hope of inspiring a system of measures capable of embracing that object, the committee was ready to admit that the Governor had been surprised into those measures by partial or designing statements. To this address, however, the Governor avoided to return an answer; for the fact is, the charges were too true to be denied, and his conduct too improper to be justified.

I must also solicit the attention of the committee of the House of Representatives to the address of Cato West and others, to the Governor and Judges, upon the subject of the laws, and the answer to that address. The committee charges the Legislature with making laws in express contradiction to the letter of the ordinance of 1787, which authorizes them only to adopt laws already made in the original States. The Governor and Judges, in their answer, confess that they have made laws which have not been derived from any one of the State codes; but they say they have been in favor of the citizen, by lessening fines and penalties. But the committee, in their reply to that answer, which concludes their correspondence, assert that the lessening of fines and penalties was not the object of their Legislative efforts; and the code of laws which, it is presumed, has by this time been transmitted to Colonel Pickering's office, will, I am fully persuaded, justify the assertion.

At the time of my departure from the Territory the discontents of the people were great indeed; the whole country was influenced by an idea that the ordinance for our government had been wantonly abused, and the Constitution of the United States as wantonly violated, at a time, and under circumstances, which required no such sacrifice.

But the Governor's appointments, civil and military, as they stand at present, have been a more abundant source of discontent than any that has arisen under his administration. All the principal officers that possessed the confidence of the people have uniformly resigned their appointments, and it will be impossible that the Governor can ever be able to organize the militia, notwithstanding his extraordinary fines, in order to force his appointments upon the people.

Can it be possible that an administration, which, from its earliest operations, has proved so repugnant to the public will, and so fatal to the happiness of society, can ever be able to restore harmony, attach public confidence, and promote the general good? The thing is impossible.

There is yet another source of uneasiness, excited by the conduct of our Governor, which I feel it a duty incumbent on me to suggest to the committee of the House of Representatives. He has heretofore been in the habit of exacting and receiving fees for passports granted to citizens travelling from the Territory to the United States, and also for tavern and marriage licenses. It is believed that his perquisites in these instances have not been inconsiderable; and if the practice were forbidden by a law of Congress, it is presumed that the burdens of the people would be somewhat lessened, and a great incentive to abuse entirely removed.

My state of health will now admit of my personal attendance on the committee of the House of Representatives, and I shall take much pleasure in making such further explanation as may be desired.

The people of the Mississippi Territory are extremely anxious for a Legislative Assembly; and there is no doubt existing, in my mind, as to the entire competency of their resources.

Division of Northwest Territory.

The power of making laws, through their immediate Representatives, in whom they have a confidence, and who have a common interest with themselves, is a privilege which cannot but be grateful to every American, and produce the best effects in that country.

I am, dear sir, with all possible esteem, your very humble servant,
N. HUNTER,

Agent Mississippi Territory.

Hon. W. C. C. CLAIBORNE,
Chairman Mississippi Committee.

[Communicated to the House of Reps., March 13, 1800.]

Mr. CLAIBORNE made the following report: The committee to whom was recommitted the report upon the petition of Cato West and others, together with certain resolutions submitted to the House on the 10th instant, proposing an abridgment of the powers granted to the Governor of the Mississippi Territory, are of opinion that it would be expedient to adopt the said resolutions, for the following reasons:

1. That from the infancy of the Mississippi settlements, and their remote situation from the seat of the Federal Government, it is advisable that the Government of the United States should possess a control over the proceedings of the Territorial Legislature, which can alone be effected through the medium of the Territorial Governor, whose responsibility, it is presumed, will prevent an improper use of any powers granted.

2. That the Territorial Government will only be temporary; and if, in the progress of the administration thereof, the system should prove defective, the necessary alterations will, no doubt, be made by Congress.

3. That the petitioners solicited *only* the benefits of the ordinance in its *second* grade, which, in the report heretofore made on the petition of Cato West and others, the House was advised immediately to extend to the Mississippi Territory; this measure the committee still think is dictated by policy and justice, and again recommend the adoption of the resolutions contained in the said report.

Resolved, That, from and after the organization of the Territorial Assembly of the Mississippi Territory, the Governor shall nominate, and, by and with the advice and consent of the Legislative Council, shall appoint all officers, both civil and military, of the Territory, whose appointments are not particularly vested in Congress by the ordinance: *Provided*, That the Governor shall have power to fill up all vacancies which may happen during the recess of the Legislative Council, by granting commissions, which shall expire at the end of their next session.

Resolved, That every bill which shall have passed the House of Representatives and the Legislative Council, shall, before it becomes a law, be presented to the Governor of the Territory; if he approves it, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at

large on their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. If any bill shall not be returned by the Governor within six days (Sunday excepted,) after it shall have been presented to him, the same shall be a law, in like manner, as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in which case, it shall not be a law.

Resolved, That every order, resolution, or vote, to which the concurrence of the Legislative Council and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the Governor of the Territory, and, before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Resolved, That the General Assembly meet at least once in every year, and such meeting shall be on the — day of — unless they shall by law appoint a different day; *Provided*, That the Governor shall have power, on extraordinary occasions, to convene both Houses of the General Assembly, or either of them.

Resolved, That neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

DIVISION OF NORTHWEST TERRITORY.

[Communicated to the House of Reps., March 3, 1800.]

The committee to whom it was referred to consider and report whether any, and, if any, what, alteration is necessary in the judiciary establishment of the Territory Northwest of the Ohio, and who were directed to report their opinion of the expediency of dividing said Territory into two distinct and separate governments, do, in obedience to such direction, make the following report:

That parts of said Territory are subject to several serious inconveniences, which require redress from the General Government; most of the evils which they at present experience are, in the opinion of this committee, to be imputed to the very great extent of country at present comprised under their imperfect government. The Territory Northwest of the Ohio, from southeast to northwest, fifteen hundred miles, and the actual distance of travelling from the places of holding courts the most remote from each other, is thirteen hundred miles, and in a country so sparsely peopled, and so little reclaimed from its native wildness, this distance alone seems to present barriers almost insuperable against the exercise of the functions of government, which always presupposes a knowledge of the condition of the sev-

Naturalization—Arms and Ammunition.

eral parts and the practicability of seasonable communication among the several organs.

In the three western counties there has been but one court having cognizance of crimes in five years; and the immunity which offenders experience attracts, as to an asylum, the most vile and abandoned criminals, and at the same time deters useful and virtuous persons from making settlements in such society. The extreme necessity of judiciary attention and assistance is experienced in civil as well as in criminal cases. The supplying to vacant places such necessary officers as may be wanted, such as clerks, recorders, and others of like kind, is, from the impossibility of correct notice and information, utterly neglected. This Territory is exposed, as a frontier, to foreign nations, whose agents can find sufficient interest in exciting or fomenting insurrection or discontent, as thereby they can more easily divert a valuable trade in furs from the United States, and also have a part thereof on which they border, which feels so little the cherishing hand of their proper Government, or so little dread of its energy, as to render their attachment perfectly uncertain and ambiguous. The committee would further suggest that the law of the 3d of March, 1791, granting land to certain persons in the western part of said Territory, and directing the laying out of the same, remains inexecuted; that great discontent, in consequence of such neglect, is excited in those who were interested in the provision of said law, and which require the immediate attention of this Legislature. To administer a remedy to these evils, it occurs to this committee that it is expedient that a division of said Territory into two distinct and separate governments should be made; and that such division be made, by a line beginning at the mouth of the Great Miami river, running directly north, until it intersects the boundary between the United States and Canada.

In which case it is conceived that the western part may be permitted to go into the same stage of government as is now in use in said Territory, as the same is supposed to contain at the present time fifteen thousand inhabitants.

Your committee, therefore, recommend to the House the adoption of the following resolution, viz:

Resolved, That the Territory Northwest of the river Ohio be divided into two distinct and separate governments, by a line beginning at the mouth of the Great Miami river, and running through a north course, until it intersects the boundary line between the United States and Canada.

NATURALIZATION.

[Communicated to the House of Reps., March 14, 1800.]

Mr. GRISWOLD, from the committee to whom was referred the petition of sundry aliens residing at Mount Pleasant, in the State of New York, made the following report:

That these petitioners state, that they came into

the United States before the passing of the law of June, 1798, respecting the naturalization of aliens, and might have made the declarations required by the law of January, 1795, and brought themselves within the proviso of the law first mentioned, and secured the right of naturalization after a residence of five years within the United States; but having omitted to make the declaration required, they are obliged to reside fourteen years within the United States before they can become citizens thereof. They request that the Legislature will pass an act which shall secure to them the same rights which they would have received had they made the declaration required by the law of January, 1795.

The committee can see nothing in this case which can warrant a deviation from the general rule.

They believe the law of June, 1798, to be founded on fair and just principles, and that a probation of fourteen years is not generally more than sufficient to conciliate the feelings of aliens to the manners, laws, and Government of a country into which they remove as strangers; and that the attachment which every honest mind feels to the country which gave him birth, and in which he has formed his early attachments, will not, probably, in the short space of five years, be so far obliterated as to make it safe or prudent for this Government to repose that confidence in him which it must place in its own citizens. The committee are therefore of opinion that the prayer of this petition ought not to be granted.

ARMS AND AMMUNITION.

[Communicated to the House of Reps., March 25, 1800.]

Mr. S. SMITH, from the committee appointed to inquire into the expediency of authorizing the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the law of the United States prohibiting the exportation of arms and ammunition, on the same principles on which the Secretary is authorized to remit forfeitures incurred under the revenue laws, made the following report:

That the power heretofore vested in the Secretary of the Treasury to mitigate or remit fines, forfeitures, and penalties, incurred under the revenue laws of the United States, was, by the express tenor thereof, limited to objects of a *fiscal* nature only, the management and superintendence of which were committed to that Department of which he is the head.

That the act of the United States prohibiting, for a limited time, the exportation of arms and ammunition, though in that act it is declared to be the duty of the custom-house officers, and of all persons employed in the collection of the revenue, to attend to the execution thereof; and though all forfeitures and penalties incurred under the said act, and not otherwise directed to be prosecuted and recovered, were to be sued for, prosecuted, adjudged, and distributed, in like manner as is provided in the act entitled "An act to provide more effectually

Breach of Privilege.

for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels," was yet essentially a political, and not a fiscal measure and regulation.

That the object contemplated by said act was of great importance, both as it related to the supplies of arms and ammunition to the United States, and as it related to the deprivation of similar supplies to those who practised hostilities against the United States.

That the power of remitting fines, forfeitures, and penalties, incurred under the said act, seems to be involved in the general "power of granting pardons for offences against the United States," vested by the Constitution in the President of the United States, to whom alone, according to the nature of our Government, it must pertain to judge of the extent of the mischiefs flowing from the violations of such political measures and regulations, and how far considerations for the remission of fines, forfeitures, and penalties incurred by such violations may be listened to consistently with the public safety in relation to that power. If cases of unintentional violation have occurred, the inconvenience of making special application to the Executive (where, upon due representation, it is not to be doubted but that every attention would at all times be paid which reason and propriety could require) cannot justify a departure from the ordinary course to be observed on similar occasions.

Your committee are therefore of opinion that it is inexpedient "to authorize the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the law of the United States prohibiting the exportation of arms and ammunition, on the same principles on which the Secretary is authorized to remit forfeitures incurred under the revenue laws."

BREACH OF PRIVILEGES.

[Communicated to the Senate, May 10th, 1800.]

To the Senate of the United States: The remonstrance and petition of the undersigned, citizens of the Republic of America, resident in the city and county of Philadelphia, respectfully sheweth:

That we, the undersigned citizens of the American Republic, deeply impressed by the proceedings now pending before the Senate, on the subject of privileges, in the case of William Duane, are anxious to call the attention of this honorable House to what they deem the real and inevitable tendency of those proceedings.

We are fully persuaded that the surest safeguard of the rights and liberties of the people is the freedom of the press; and friends as we are to a republican Government, we cannot view, without strong emotions of surprise and regret, the doctrines and practices of the privileged bodies of Europe about to be adopted in this free country against that sacred bulwark of republican liberty.

Relying on the Constitution, we *had* thought that no law could be made by Congress abridging the freedom of the press. But we find, by the proceedings of the Senate, that the privileges of one House may effect what the Constitution has forbidden to the three branches of our Legislature united.

We *had* thought that the Constitution had secured to the citizens of the United States the right of a trial by jury; but the proceedings of the Senate have convinced us that we are liable to be tried and punished for new and unknown offences, without recourse to that Constitutional tribunal.

We have long viewed with silent horror the baneful progress of the Sedition law; but patiently submitted to evils we could not but feel, in hopes that the *juries* of our country might palliate, if not cure them; but with unfeigned sorrow and surprise we observe, in the proceedings of the Senate, another sedition law rising up to appal us; a sedition law that defies the counteraction of the laws of our land or the juries of our country.

We *had* thought that the Constitution provided against the dangerous intermixture of judicial, legislative, and executive authorities; but the proceedings of the Senate have shown us that the Constitution has not yet sufficiently guarded this most important principle, which the doctrine of privilege is so well calculated to destroy.

We *had* thought that the three branches of our Legislature were unitedly, but not severally, competent to the enactment of those laws which bind the persons and properties of the citizens; but we now find that penal ordinances may be enacted and enforced by the Senate alone! and we contemplate a speedy and alarming extension of our criminal code, if the present example should unhappily be pursued by similar claims of Representative privilege.

We *had* thought that the rights and authorities of the respective branches of our Federal Government had been expressly defined by the Federal Constitution, and that the Constitution itself was drawn up and sanctioned by the public voice for this *express* purpose; but we now see that rights may be claimed, and privileges assumed, which we seek for in vain among the declarations and provisions of that supreme law of our land.

We *had* thought that the Constitution had provided that, in every criminal case, an accused person should be confronted with his accusers, have process for his witnesses, and be *fully* heard by himself or counsel in his defence; but the proceedings in question have convinced us that these rights are very imperfectly secured, while an accusing Senate can dictate to a defendant the defence on which he must rely, and arbitrarily confine him to the weakest part of it.

We *had* thought that the plain and acknowledged principle of natural justice would have prevented the accusers from being also the judges, the jury, and the punishers; but the proceedings of the Senate have satisfied us that these inconsistent characters *may* be mingled, and this plain and acknowledged principle of natural justice be completely forgotten or boldly renounced.

City of Washington.

We dread the introduction of rights unlimited, and power unbounded, whether under the name of privilege, or prerogative, or implied authorities, or constructive powers; and we speak with solemn and profound regret that the late proceedings of the Senate have strongly excited in us this dread.

Our hearts are full upon this subject; we could accumulate our reasons of apprehension from these proceedings far beyond the common bounds of a petition and remonstrance; but we forbear. If the objections we have already assigned are unfelt and unnoticed, we must patiently contemplate the gloomy prospect before us, and calmly wait the approaching period when we shall no longer boast of being citizens of the American Republic.

We reverence the constituted authorities of our country too much to dictate to them the line of their duty, or to reflect improperly on their conduct, or to occupy unnecessarily their time. But on great public occasions, when our liberties are essentially involved, we *will* practice and maintain our acknowledged right to petition and remonstrate for redress of grievances; and therefore we do, with sincere deference for the honorable body we now address, but at the same time anxiously impressed with the danger of the present proceedings, respectfully call upon the Senate to reconsider the resolutions by them adopted on the subject of privilege, in the case of William Duane.

CITY OF WASHINGTON.

[Communicated to Congress, January 30, 1801.]

Gentlemen of the Senate, and

Gentlemen of the House of Representatives :

I transmit to Congress, for their consideration, a letter from William Thornton, Alexander White, and William Cranch, Esquires, Commissioners of the City of Washington; with a representation of the affairs of the city, made by them to the President of the United States, dated January 28, 1801, accompanied with a series of documents marked from A to H, inclusively.

JOHN ADAMS.

UNITED STATES, *January 30, 1801.*

COMMISSIONERS' OFFICE, *Jan. 28, 1801.*

SIR: We do ourselves the honor to present to you a state of the business under our care, and of the public property belonging to the Federal seat, with an estimate of its value, founded, not on mere supposition, but on the average of former sales.

This report would have been made at an earlier day, had it not been delayed by the unfortunate death of Mr. Scott.

We have the honor to be, with sentiments of the highest respect, sir, your most obedient servants,

WILLIAM THORNTON,
ALEXANDER WHITE,
W. CRANCH.

The President of the United States.

To the President of the United States:

The Commissioners appointed by virtue of the act of Congress entitled "An act for establishing the temporary and permanent seat of the Government of the United States," respectfully represent :

That the business committed to their charge having so far proceeded as to enable the Government to remove to its permanent seat, they have judged it expedient to lay before the President such a statement as will enable him to determine on the measures proper to be pursued in future.

By the act of Congress abovementioned, the Commissioners appointed in the manner thereby prescribed, or any two of them, were authorized to purchase or accept such quantity of land on the eastern side of the river Potomac, within the District, in the said act mentioned, as the President should deem proper for the use of the United States; and, according to such plans as the President should approve, prior to the first Monday in December, 1800, provide suitable buildings for the accommodation of Congress, and of the President, and of the public officers of the Government of the United States. That the President, in compliance with the act abovementioned, and of an act to amend the same, passed at Philadelphia, on the 3d of March, 1791, did, by his proclamation, dated 30th of the same month, locate a district within the limits prescribed by the abovementioned acts, and which has now become the permanent seat of the Government of the United States. That the President, agreeably to the abovementioned acts, appointed, and by supplying vacancies which have happened by resignation and death, has kept in appointment, three Commissioners, for the purposes in the said acts declared. That the proprietors of the lands on which the City of Washington is laid out, by their several deeds, dated in or about the month of June, 1791, conveyed the said lands to Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, in trust, to be laid out in a Federal city, with such streets, squares, parcels, and lots, as the President of the United States for the time being should approve; and that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, should convey to the Commissioners, for the time being, and their successors, for the use of the United States, forever, all the streets, and such of the said squares, parcels, and lots, as the President should deem proper for the use of the United States, forever; and that as to the residue of the lots, into which the said lands should be laid off, that a fair and equal division should be made of them in the manner in the said deeds of trust specified, and that the part assigned to the public should be sold at such times and in such manner, and on such terms and conditions, as the President of the United States for the time being should direct; and that the said trustees, or the survivors of them, or the heirs of such survivors, should, on the order of the President, convey all the said lots, so sold and ordered to be conveyed, to the respective purchasers, in fee simple,

City of Washington.

according to the terms and conditions of such purchases; and the produce of the sales of the said lots, when sold as aforesaid, should in the first place be applied to the payment in money to the original proprietors for all the parts of their lands which should be laid off in lots, squares, or parcels, and appropriated to the use of the United States, at the rate of £25 per acre, not accounting streets any part thereof; and the surplus, whether in money or securities of any kind, should be paid, assigned, transferred, and delivered over to the President for the time being, as a grant of money to be applied to the purposes mentioned in the aforesaid act. In which deeds of trust, it is further provided, that the said Trustees should at any time, at the request of the President of the United States, convey all or any of the said lands, which shall not then have been conveyed in execution of the trusts aforesaid, to such person or persons as he shall appoint, in fee simple, subject to the trusts then remaining to be executed, and to the end that the same may be perfected, (A.) A very valuable property being thus placed at the disposal of the President, he pursued those measures which appeared most conducive to the great objects committed to his charge. He directed public sales of the property, and authorized, by a writing under his hand, dated 29th September, 1792, the Commissioners, or any two of them, to sell, or agree for the sale of any lot or lots in the said city at private sale, for such price and on such terms as they should think proper, (B.) But no sales took place deserving attention, until the 23d of December, 1793, when a contract was made with Robert Morris and James Greenleaf, for the sale of six thousand lots, averaging five thousand two hundred and sixty-five square feet each, at the rate of eighty dollars per lot, payable in several equal annual instalments, without interest, commencing the 1st of May, 1794, and with condition of building twenty brick houses annually, two stories high, and covering twelve hundred square feet each; and with further condition that they should not sell any lots previous to the 1st of January, 1796, but on condition of erecting on every third lot one such house within four years from the time of sale, (C.) This contract was afterwards modified by an agreement of the 24th of April, 1794, by which the payment of 80,000 dollars, and the erecting the first-mentioned houses, should rest on the joint bond of the said Morris and Greenleaf, and of John Nicholson; and that one thousand lots should be conveyed to the said Morris and Greenleaf, (D.) which was accordingly done. It is proper to observe, that on the day on which the first-mentioned contract was executed, the Assembly of Maryland passed a law enacting, "that on all sales of lots in the said city, by the said Commissioners, or any two of them, under terms or conditions of payment being made therefor, at any day or days after such contract entered into, if any sum of the purchase money or interest shall not be paid for the space of thirty days after the same ought to be paid, the said Commissioners, or any two of them, may sell the same lots at public vendue, in the City of

Washington, at any time after sixty days' notice of such sale, in some of the public newspapers of Georgetown and Baltimore town, and retain in their hands sufficient of the money produced by such new sale, to satisfy all principal and interest due on the first contract, together with the expenses of advertisement and sale; and the original purchaser, or his assigns, shall be entitled to receive from the said Commissioners, at their treasury, on demand, the balance of the money which may have been actually received by them, or under their order, on the said second sale; and all lots so sold shall be freed and acquitted of all claim, legal, and equitable, of the first purchaser, his heirs and assigns."

Notwithstanding the favorable prospect which this transaction for a time afforded, the scene soon changed. The purchasers not only failed to pay the instalment which became due in May, 1795, but early in that year discontinued the buildings which they had commenced under their contract, and in which very little progress has since been made. The President, however, did not think it prudent to offer for sale so large a portion of the public property as would be necessary to raise the sums requisite for carrying on the public buildings; believing, on grounds sufficiently solid to authorize the declaration of his opinion in a message to Congress, accompanying the memorial of the Commissioners hereafter mentioned, that this property would be amply sufficient for the purpose, could it be reserved till after the removal of Government, or till it could be sold in small parcels to such as would purchase for their own use. It was therefore determined to solicit the patronage of Congress, which was done in the year 1796, by a memorial from the Commissioners, stating the affairs of the Federal seat in as clear a light as circumstances would then admit, and suggesting the propriety of authorizing a loan bottomed on the city property, and guaranteed by Congress, if that property should prove deficient. Congress approved of the measure, and authorized a loan, under their guaranty, to the amount of \$300,000. It is needless to detail the fruitless attempts which were made to fill this loan with actual specie. The only loan which could be obtained was \$200,000 in United States six per cent. stock, at par, from the State of Maryland, and for which the Commissioners were obliged, in addition to the guaranty of Congress, to give bonds, in their individual capacities, agreeably to the resolutions of the Assembly of that State, passed in the years 1796 and 1797. (E.)

The moneys arising from the sales of this stock, with the interest accrued thereon previous to the respective sales, amount to \$169,873 41; and the interest paid thereon, up to the 30th of September last, inclusive, amounts to \$39,000; so that the net sum of \$130,873 41 remained applicable to the use of the public.

The extent of these loans being thus ascertained, and the purchasers of lots still failing to pay the amount of their purchases, it became obvious that the views of Government could not be accomplished without further aid.

City of Washington.

The Commissioners, therefore, prepared a second memorial to Congress, stating the situation of the Federal seat, and the resources which remained in their hands, which memorial was transmitted by the President to Congress on the 23d of February, 1798, and, in consequence, an act was passed authorizing the Treasurer of the United States to advance the sum of \$100,000, at the times in the said act mentioned, which was declared to be in full of the sums previously guaranteed. From the difficulty of collecting outstanding debts, as well from purchasers at public sales held by the Commissioners for default of payment by the first purchasers, as from the first purchasers themselves, it became evident that the several objects considered as necessary previous to the removal of Government could not be accomplished with the means at the disposal of the Commissioners; application was therefore made to the Assembly of Maryland for a loan, and a resolution of that Legislature was obtained on the 23d of December, 1799, directing the trustee of the State to transfer to the Commissioners of the Federal buildings in the City of Washington the sum of \$50,000 of the stock of the United States, bearing a present interest of six per cent. per annum, on their giving such real and personal security as the Governor and Council should approve, for the payment of the principal sum, on or before the 1st day of November, 1802, and the punctual payment of the interest quarter-yearly. Whereupon, Gustavus Scott and William Thornton, two of the Commissioners, together with Uriah Forrest and James M. Langan, entered into bond to the State of Maryland for payment of the principal sum of \$50,000, and interest thereon; and the said Uriah Forrest executed a mortgage on 420 acres of land, for the same purpose, agreeably to the said resolution; the abovementioned Commissioners having agreed, by a letter dated 28th of February, 1800, and directed to the said Uriah Forrest and James M. Langan, in answer to their letter of the same date, that all the property in the City of Washington, before that time sold or contracted for, and where the payments had not been made, (except the property pledged by the act of Congress to secure the loan of \$300,000,) should be held as security for the payment of the said sum of \$50,000. (F.)

The Trustee of the State transferred the stock accordingly, which has been sold at different times, including the interest received thereon, for the sum of \$42,738 36, and interest has been paid thereon up to the 30th of September last, inclusive, to the amount of \$2,250, leaving the net sum of \$40,488 96 to be applied to public use. The land which has been accepted, or purchased by the Commissioners for the use of the United States, and which yet remains unsold, (exclusive of lots forfeited for non-payment of the purchase money, and which for that cause are liable to be resold,) consists of 24,655,735 square feet of ground in the City of Washington, equal to 4,682 lots of 5,265 square feet each, exclusive of lots which bind on navigable water; these form fronts to the extent of 2,043 feet, and are generally sold by the

foot front. It is impossible to ascertain with precision the value of this property; some idea may be formed of it by taking the average price at which similar property has heretofore been sold; in this case, a reference must be had to the different situations; 3,178½ of the city lots lie north-east of Massachusetts avenue, in which situation only five standard lots (except 1,500, part of Morris & Greenleaf's selection of 6,000 lots) have been sold by the Commissioners; but many lots (of private property) on the same side of that avenue have been sold. We have been able to ascertain the price of 355 of these, which, united with the price of the five lots sold by the Commissioners, make an average of upwards of \$105 per standard lot, which rate would produce, by the sale of the whole number on that side of the avenue, the sum of \$333,747. The remaining 1,504 lots are situated to the southwest of Massachusetts avenue; the average price of lots sold in that division of the city, since passing the guaranty law in May, 1796, is \$343, at which rates the abovementioned 1,504 lots would produce \$515,872. The average price of lots binding on navigable water, sold during the same period, is \$12 71 per foot front. The property of this description, remaining to be sold at the same rate, would produce \$25,979 24. It is to be observed that most of these lots were sold at periods remote from the time when profit could be expected to arise from them, and many of them at reduced prices, in consequence of covenants to build thereon. Although it may be admitted that the lots heretofore sold, are, on an average, better than those which remain for sale, yet the change of circumstances under which future sales may be made we hope will more than counterbalance the difference. In addition to this property, four wharves have been built, at the expense of thirty-two hundred and twenty-one dollars eighty-eight cents, which yet remain in a useful state.

An island in Aquia creek, in the State of Virginia, was purchased, in the year 1791, for the sum of \$6,000, on account of the freestone quarries therein, which has been conveyed to the before-mentioned Thomas Beall and John M. Gantt for the use of the United States. Thus a real estate of the value of \$884,819 88, according to the best estimate we are able to form, remains at the disposal of Government. (G.)

The measures to be pursued, with regard to this property, it is not for us to determine; but we think it necessary to state some other matters which require attention. The debts due, and shortly to become due, to the city fund, and which are considered as good, amount to \$144,125 80; and the debts contracted on the credit of that fund, as nearly as can be ascertained, amount to \$360,881 05. (G.)

Although it is believed that all the debts stated to be good may be ultimately recovered, (they being due for property sold and not conveyed, or secured by notes with sufficient endorsers,) yet the difficulty of enforcing payment is such that they cannot be relied on for the punctual payment of the interest on the several loans from the State of

City of Washington.

Maryland, of the sums due to individuals, and the expenses of the Commissioners' office.

We further observe, that only three squares remain undivided, owing to the original proprietors not having agreed on their respective proportions therein; and that the division of thirty-three squares has been agreed upon, but the papers respecting them are not yet signed by the parties; and that the accounts with some of the original proprietors for land appropriated for public use have not yet been settled, owing to a difference of opinion between the Commissioners and them with respect to small portions of land for which they claim payment.

Thomas Beall and John M. Gantt, the trustees before named, have, at the request of the President of the United States, conveyed the building lots in the city of Washington to Gustavus Scott, William Thornton, and Alexander White, subject to the trusts remaining to be executed. Gustavus Scott has since deceased. The said trustees have been required by the President to convey the streets and grounds appropriated to public use to the Commissioners, but have not complied.

Several acts of the Legislature of Maryland have vested certain powers in the Commissioners, which it may be proper to notice, particularly an act passed the 19th December, 1791, entitled "An act concerning the Territory of Columbia and City of Washington," a copy whereof is enclosed, (marked H;) and an act passed in December, 1793, being a further supplement to the act above mentioned; by the first paragraph of which it is enacted, "That the certificates granted, or which may be granted by the said Commissioners, or any two of them, to purchasers of lots in the said city, with acknowledgment of the payment of the whole purchase money and interest, if any shall have arisen thereon, and recorded agreeably to the directions of the act concerning the Territory of Columbia and City of Washington, shall be sufficient and effectual to vest the legal estate in the purchasers, their heirs, and assigns, according to the import of such certificate, without any deed or formal conveyance."

The second paragraph of the last mentioned act, empowering the Commissioners to resell lots for default in payment of the first purchase money, has been before recited.

The Commissioners having stated all the facts and observations which appear to them necessary for the information of Government respecting the business committed to their charge, with the greatest deference and respect submit the same to the consideration of the President of the United States.

WILLIAM THORNTON,
ALEXANDER WHITE,
W. CRANCH.

COMMISSIONERS' OFFICE, Jan. 28, 1801.

A.

Copy of a Deed of Trust for Land in the City of Washington.

This indenture, made this — day of June, in the year 1791, between Abraham Young, of the

State of Maryland, of the one part, and Thomas Beall, of George, and John Mackall Gantt, of the State of Maryland, of the other part, witnesseth: That the said Abraham Young, for and in consideration of the sum of five shillings, to him in hand paid by the said Thomas Beall, of George, and John M. Gantt, before the ensembling and delivery of these presents, the receipt whereof he doth hereby acknowledge; and thereof doth, against the said Thomas Beall, of George, and John M. Gantt, their executors and administrators, and also for and in consideration of the uses and trusts hereinafter mentioned, to be performed by the said Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of each survivor, according to the true intent and meaning thereof, hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, and confirm, unto the said Thomas Beall and John M. Gantt, and the survivor of them, and the heirs of such survivor, all the lands of him, the said Abraham Young, lying and being within the following limits, boundaries, and lines, to wit: Beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence, along the middle of the said road, to a stone standing on the east side of the Reedy branch of Goose creek; thence, southeasterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern Branch ferry; then, south, to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek, to the Eastern Branch; thence, east, parallel to the said east and west line, to the Eastern Branch; thence, by and with the waters of the Eastern Branch, Potomac river, and Rock creek, to the beginning, with their appurtenances, except all and every lot or lots of which the said Abraham Young is seized, or to which he is entitled, lying in Carrollsburg or Hamburg; to have and to hold the hereby bargained and sold lands, with their appurtenances, to the said Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, forever, to and for the special trusts following, and no other, that is to say: that all the said lands hereby bargained and sold, or such part thereof as may be thought necessary and proper, to be laid out, together with other lands within the said limits, for a Federal city, with such streets, squares, parcels, and lots as the President of the United States, for the time being, shall approve; and that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, shall convey to the Commissioners for the time being, appointed by virtue of the act of Congress, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," and their successors, for the use of the United States, forever, all the said streets, and such of the said squares, parcels, and lots, as the President shall deem proper for the use of the United States; and that as to the residue of the

City of Washington.

lots, into which the lands hereby bargained and sold shall have been laid off and divided, that a fair and equal division of them shall be made; and if no other mode of division shall be agreed on by consent of the said A. Young, and the Commissioners for the time being, then such residue of the said lots shall be divided, every other lot alternate to the said A. Young; and it shall, in that event, be determined by lot whether the said A. Young shall begin by the lot of the lowest number laid out on the said land, or the following number; and all the said lots which may in any manner be divided or assigned to the said Abraham Young shall thereupon, together with any part of the said bargained and sold land, if any, which shall not have been laid out into the said city, be conveyed by the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, to him, the said Abraham Young, his heirs or assigns; and that the said other lots shall and may be sold at such time or times, in such manner, and on such terms and conditions, as the President of the United States for the time being shall direct. And that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, will, on the order or direction of the President, convey all the said lots so sold and ordered to be conveyed to the respective purchasers, in fee simple, according to the terms and conditions of such purchases; and the produce of the sales of the said lots, when sold as aforesaid, shall, in the first place, be applied to the payment in money to the said A. Young, his executors, administrators, or assigns, for all the part of the land, hereby bargained and sold, which shall have been laid off in lots, squares, or parcels, and appropriated as aforesaid to the use of the United States, at the rate of twenty-five pounds per acre, not accounting the said streets as part thereof; and the said twenty-five pounds per acre being so paid, or in any other manner satisfied, that then the produce of the same sales, or what part thereof may remain as aforesaid in money, or securities of any kind, shall be paid, assigned, transferred, and delivered over to the President for the time being, as a grant of money, and to be applied for the purposes and according to the act of Congress aforesaid. But the said conveyance to the said A. Young, his heirs or assigns, as well as the conveyance to the purchasers, shall be on and subject to such terms and conditions as shall be thought reasonable by the President for the time being, for regulating the materials and manner of the buildings and improvements on the lots generally in the said city, or in particular streets or parts thereof, for common convenience, safety, and order; provided such terms and conditions be declared before the sales of any of the said lots under the direction of the President. And in trust further, and on the agreement that the said A. Young, his heirs or assigns, shall and may continue his possession and occupation of the said land hereby bargained and sold, at his and their will and pleasure, until the same shall be occupied under the said appropriations for the use of the United

States as aforesaid, or by purchasers. And when any lots or parcels shall be occupied under purchase or appropriations as aforesaid, then, and not till then, shall the said A. Young relinquish his occupation thereon. And in trust, also, as to the trees, timber, and wood on the premises, that he, the said A. Young, his heirs or assigns, may freely cut down, take, and use the same as his and their property, except such of the trees and wood growing as the President or Commissioners aforesaid may judge proper, and give notice, shall be left for ornament; for which the just and reasonable value shall be paid to the said A. Young, his executors, administrators, or assigns, exclusive of the twenty-five pounds per acre for the land. And in case the arrangements of the streets, lots, and the like, will conveniently admit of it, he, the said A. Young, his heirs and assigns, shall, if he so desire it, possess and retain the buildings and graveyards, if any, on the hereby bargained and sold lands, paying to the President at the rate of twelve pounds ten shillings per acre for the lands so retained, because of such buildings and graveyards to be applied as aforesaid; and the same shall be thereupon conveyed to the said A. Young, his heirs and assigns, with his lots; but if the arrangements of the streets, lots, and the like, will not conveniently admit of such retention, and it shall become necessary to remove such buildings, then the said A. Young, his executors, administrators, or assigns, shall be paid the reasonable value thereof, in the same manner as squares or other ground appropriated for the use of the United States are to be paid for. And because it may so happen that, by the deaths or removals of the said Thomas Beall, of George, and John M. Gantt, and from other causes, difficulties may arise in fully perfecting the said trusts by executing all the said conveyances, if no eventual provision is made; it is therefore agreed and covenanted between all the said parties, that the said Thomas Beall, of George, and John M. Gantt, or either of them, or the heirs of either of them, lawfully may, and that they at any time at the request of the President of the United States for the time being, will convey all or any of the said lands hereby bargained and sold, which shall not then have been conveyed in execution of the trusts aforesaid, to such person or persons as he shall appoint, in fee simple, subject to the trusts then remaining to be executed, and to the end that the same may be perfected. And it is further granted and agreed between all the said parties, and each of the said parties doth for himself respectively, and for his heirs, covenant and grant to and with the others of them, that he and they shall and will, if required by the President of the United States for the time being, join in and execute any further deed or deeds carrying into effect the trusts, purposes, and true intent of this present deed.

In witness whereof, the parties to these presents have interchangeably set their hands and affixed their seals, the day and year first above written.

Signed, sealed, &c.,

A. YOUNG.

R. T. HOOE,

DANIEL JENIFER, Jun.

City of Washington.

B.

Copy of the President's order to the Commissioners to sell at private sale.

SEPTEMBER 29, 1792.

The President of the United States doth hereby order and direct that any lot or lots in the City of Washington may, after the public sale, to commence on the 8th day of October, be sold and agreed for by the Commissioners, or any two of them, at private sale, for such price and on such terms as they may think proper.

GEO. WASHINGTON.

C.

Copy of Morris and Greenleaf's contract with the Commissioners, dated 24th December, 1793.

Articles of agreement made and indented this twenty-fourth day of December, in the year of our Lord one thousand seven hundred and ninety-three, between the Commissioners for the Federal Buildings in the City of Washington on the one part, and Robert Morris, of the city of Philadelphia, and James Greenleaf, of the city of New York, Esquires, of the other part.

Whereas the said Commissioners, on the twenty-third day of September last, did enter into an agreement, in writing, with the said James Greenleaf, for the sale of three thousand lots of ground in the City of Washington, at the price of twenty-five pounds, current money of Maryland, for each lot, to be ascertained in the mode specified in the said agreement; and the sale to be made upon the terms and conditions therein also specified, as by the said agreement, reference being thereto had, will more fully appear; and whereas the said James Greenleaf is empowered by the said Robert Morris to enter into a contract in his name and on his behalf, as his agent, for the purchase of a like number of lots in the said City of Washington, for such price and on such terms and conditions as may be agreed upon between him and the said Commissioners; and, in pursuance of such power, the said James Greenleaf hath agreed with the said Commissioners for the purchase of three thousand lots of ground in the said City of Washington, fifteen hundred of them to be designated on the southwest, and fifteen hundred of them to be designated on the northeast side of Massachusetts avenue, at the price of thirty-five pounds, current money aforesaid, for each of the said lots, payable yearly, in seven equal payments, without interest; the first of which payments to be made on the first day of May next ensuing the date of these presents, and so on the first day of May in each year succeeding thereto, until the whole of the seven payments shall have been made; and hath further agreed, in pursuance of the said power, that the said Robert Morris should build annually, for seven years next ensuing, ten brick houses, of two stories each, and each of them covering twelve hundred square feet, making, in the whole, seventy houses; and that the said Robert Morris, or his heirs, should not, before the first day of January, in the year one thousand seven hundred and ninety-six, sell or contract for the sale

of any of the said lots, but under and upon the express condition that one such house, at the least, should be built and erected on every third lot, within four years next after such sale or contract for sale. But it is understood and hereby declared to be the meaning of the parties to these presents, that the said Robert Morris and James Greenleaf may, at their pleasure, associate to them one or more persons in the whole purchase, without creating on any of them an obligation to erect on or for every third lot; and whereas it is agreed by and between the said Commissioners and the said James Greenleaf, that everything relating to a loan specified in the contract above mentioned, made between the said Commissioners and the said James Greenleaf on the twenty-third day of September last, to be hereafter made by the said James Greenleaf, shall be referred to a new contract, made and entered into this day by and between the said Commissioners and the said James Greenleaf, and shall have no other effect whatever than what such new contract specifies and ascertains; and whereas it is thought best, by the parties to these presents, to consolidate and join in one contract both the said agreements, and, further to prevent all disagreement concerning the size of the said lots, to fix and ascertain five thousand two hundred and sixty-five square feet as the average of the areas of the lots contracted for as aforesaid, as well as to ascertain and fix the general location of them, and to modify that part of the agreement with regard to the improvements to be made: *Now, therefore, these articles witness,* That the said Commissioners had sold and contracted for the sale and conveyance, and do hereby, for themselves and their successors, in consideration of the covenants of the said Robert Morris and James Greenleaf, hereinafter expressed, being fully executed and performed on their part, sell and contract for the sale and conveyance to them, the said Robert Morris and James Greenleaf, as tenants in common, and their heirs, in fee, six thousand lots of ground in the said City of Washington, upon the average of five thousand two hundred and sixty-five square feet to each lot, so that the aggregate in lots, reckoning in the ways to the squares, as the proportion thereof to the lots to be conveyed, shall amount to thirty-one million five hundred and ninety-thousand square feet, four thousand five hundred of which lots shall lie to the southwest of Massachusetts avenue, and the remaining fifteen hundred shall lie to the northeast of the said avenue. And that, of the said four thousand five hundred lots on the southwest of the said avenue, the said Robert Morris and James Greenleaf shall have the part of the city on Notley Young's land, and in that part of Daniel Carroll's land which lies in the branches of the canal, clear of Carrollsburg. And that the said Robert Morris and James Greenleaf shall have a right to choose, to satisfy the residue of the said four thousand five hundred lots lying to the southwest of the Massachusetts avenue aforesaid, on any part of the said southwest side of the avenue that they shall think proper, excepting such lots as shall lie in squares numbered as follow, to wit,

City of Washington.

&c. &c., and the lots lying in Carrollsburg; and also further excepting the water lots, including the water lots lying on the Eastern Branch, and also one-half of the lots lying in Hamburg; the lots in that part of the city, and belonging to it, other than water lots, being to be divided, by alternate choice, between the said Commissioners and the said Robert Morris and James Greenleaf: Provided, however, and it is hereby agreed, by and between the parties to these presents, that the said Robert Morris and James Greenleaf are entitled to the lots in Notley Young's land, and, of course, to the privileges of wharfing annexed thereto; and that lots adjoining the canal are not reckoned water lots; and that the said Robert Morris and James Greenleaf shall have a right to choose the remaining fifteen hundred lots lying to the northeast of the said Massachusetts avenue, or any part thereof they shall think proper, excepting one-half of the squares which shall adjoin the spot that may be appropriated for a national university, which is expected to be fixed on the northeast side of the said avenue. And the said Robert Morris and James Greenleaf, do hereby, in consideration of the agreement on the part of the said Commissioners hereinbefore set forth, for themselves, their heirs, executors, and administrators, jointly and severally agree to and with the said Commissioners to pay to them or their successors thirty pounds, current money of Maryland, for each of the said six thousand lots contracted to be sold as aforesaid, amounting to one hundred and thirty thousand pounds, current money aforesaid, in seven equal annual payments, without interest, and the first payment to be made on the first day of May next ensuing the date of these presents; and that they will build and erect yearly, on some parts of the said lots, twenty brick houses, of two stories each, and each house covering twelve hundred square feet, until the number of one hundred and forty houses shall be built and erected; and that all buildings and improvements to be made on any of the said lots shall conform to the general regulations published by the President of the United States; and that neither the said Robert Morris and James Greenleaf, nor their heirs, will sell or contract for the sale of any of the said lots before the first day of January, one thousand seven hundred and ninety-six, but upon the express condition that one such house, at least, as above described, shall be built and erected on every third lot, at the least, within four years after such sale or contract for sale. But, as it will promote the interest of the city that at least some of the said houses should be larger, and that all front houses of the size of those described should be of three stories in height, it is agreed by and between the parties aforesaid, and declared by them to be the meaning of these presents, that the area of all houses exceeding twelve hundred square feet shall be reckoned accordingly, and discount in proportion as they cover more than the twelve hundred square feet; and that all houses of three proper proportioned stories shall be reckoned and discounted at the rate of one-fourth part more than their area, so that the aggregate of houses of

not less than twelve hundred square feet shall cover, with the allowance of one-fourth for three story houses, one hundred and sixty-eight thousand square feet. And it is hereby declared, that the covenants and agreements, on the part of the said Robert Morris and James Greenleaf, and the true and faithful performance of them, are the terms and conditions of the sale of the said six thousand lots. And it is further agreed, by and between the parties aforesaid, that, in the division that is hereafter to be made between the said Commissioners and the present proprietors of the property of the said City of Washington, due regard shall be had by the said Commissioners that such divisions shall take place, as far as consistently may be, for the interest of the said Robert Morris and James Greenleaf. And, further, it is understood and declared, that the lots already sold or contracted for by the Commissioners are not to be chosen by the said Robert Morris and James Greenleaf.

In witness whereof, we have hereunto set our hands the day and year first above written.

R. MORRIS,

by J. Greenleaf, his agent.

J. GREENLEAF.

T. JOHNSON,

D. STEUART,

D. CARROL,

} Commissioners.

Witness: WILLIAM DEAKINS, Jun.

D.

Copy of Minute of 24th April, 1794.

The Commissioners of the Federal District and Mr. Greenleaf entered on the subject of Messrs. Morris and Greenleaf's propositions, of the 7th of January last, communicated by the Commissioners to the Secretary of State, and being mutually disposed to accommodate in order to effect their common view of improvement of the city, have fallen on the following mode of carrying on and settling the contract of Messrs. Morris and Greenleaf:

1st. That an account shall be raised between the Commissioners and Messrs. Morris and Greenleaf, charging the lots which may from time to time be conveyed to them or their assigns, and giving credit for the payments, as made.

2d. That the Commissioners will grant a certificate or deed in fee for the public lots contracted for by Morris and Greenleaf, on Mr. Notley Young's land, and supposed to be about one thousand, as soon as those lots can be ascertained, or even before, if a general description will answer the purposes of Messrs. Morris and Greenleaf, on their giving bond, with Mr. John Nicholson, for the amount of the same, and for performing the contract made relative to improvements.

3d. And in order that Messrs. Morris and Greenleaf may have the advantage of disposing of any of their lots, amounting to six thousand, at their will, the Commissioners, on their assignment or order, will grant certificates or deeds in fee to such persons as they may from time to time require, acknowledging the payment of the consideration money, and subjoining thereto the condi-

City of Washington.

tion of improvement, (if any is to be made,) according to the contract of Messrs. Morris and Greenleaf; the Commissioners being willing to rely on the condition to be inserted in the certificate, or in the responsibility of Morris, Greenleaf, and Nicholson, as the case may require, for the improvement of every third lot sold by them before the 1st day of January, 1796, agreeable to the tenor of their contract; and the Commissioners are willing to allow the amount of one thousand lots, and the improvements on the whole number of lots, to rest on the joint and several bonds of Morris, Greenleaf, and Nicholson; it being intended that a credit on their personal security may at any and at all times amount to the cost of one thousand lots, as before mentioned.

[NOTE.—The above is a copy of an entry made in the minutes of the Commissioners, between the 15th and 24th April, 1794.]

E—1

Resolutions passed in 1796 and 1797, for loans to the Commissioners, by the Legislature of Maryland.

BY THE HOUSE OF DELEGATES,
December 14, 1796.

Resolved, That this State will loan, for the use of the City of Washington, the sum of \$100,000, agreeable to the request made by the Commissioners of the said city, under the authority given by the President of the United States to them, conformably to the act of the Congress of the United States.

Resolved, That the said loan be paid in six per cent. stock of the United States, bearing an immediate interest of six per cent. at par; which sum the Trustee of this State is authorized to transfer to the said Commissioners: *Provided*, To secure the repayment of the same with interest, at the times and in the manner prescribed by the act of Congress entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," Gustavus Scott, William Thornton, and Alexander White, or a majority of them, give bond to the State of Maryland conditioned for the payment of \$100,000, and punctual payment of six per cent. interest on the said sum of \$100,000, quarterly, and on the several days on which interest on the said stock is now received from the United States: *And, provided also*, That, before the transfer of the said stock, Gustavus Scott, William Thornton, and Alexander White, in their individual capacities, give bond to the State of Maryland in the penalty of \$200,000, conditioned for the payment of the said sum of \$100,000, with interest, at the times and in the mode prescribed by the act of Congress aforesaid, as additional and collateral securities for the same.

By order:

WILLIAM HARWOOD,
Clerk of the House of Delegates.

Assented to by the Senate, Dec. 17, 1796.

E—2.

Resolution of the Maryland Legislature, passed December, 1797, for a loan of \$100,000 to the City of Washington.

BY THE HOUSE OF DELEGATES,
December 22, 1797.

Resolved, That this State will loan, for the use of the City of Washington, the sum of \$100,000, agreeable to the request made by the Commissioners of the said city, under the authority given by the President of the United States to them, conformably to the act of Congress of the United States.

Resolved, That the said loan be paid in six per cent. stock of the United States, bearing an immediate interest of six per cent., at par; which sum the Trustee of this State is authorized to transfer to the said Commissioners: *Provided*, To secure the repayment of the same, with interest, at the times and in the manner prescribed by the act, entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," Gustavus Scott, William Thornton, and Alexander White, or a majority of them, give bond to the State of Maryland, conditioned for the payment of \$100,000, and punctual payment of six per cent. interest on the said sum of \$100,000, quarterly, and on the several days on which interest on the said stock is now receivable from the United States: *And provided also*, That, before the transfer of the said stock, Gustavus Scott, William Thornton, and Alexander White, in their individual capacities, give bond to the State of Maryland, in the penalty of \$200,000, conditioned for the repayment of the said sum of \$100,000, with interest, at the times and in the modes prescribed by the act of Congress aforesaid, as additional and collateral security for the same.

WM. HARWOOD,
Clerk of the House of Delegates.

BY THE SENATE, Dec. 22, 1797.

Read the first and second time, by especial order, and assented to.

By order: ARCH. VAN HORN.
Clerk of the Senate.

F.

Resolution of the Assembly of Maryland, passed December, 1799, for a loan of \$50,000, to the City of Washington.

BY THE HOUSE OF DELEGATES,
December 23, 1799.

Resolved, That the Trustee of this State transfer to the order of the Commissioners of the Federal Buildings, in the City of Washington, the sum of \$50,000 of the stock of the United States, bearing a present interest of six per cent. per annum, upon their giving such real and personal security as the Governor and Council shall approve for the payment of the principal sum, on or before the 1st day of November, in the year 1802, and the punctual payment of the interest thereon quarter-yearly; and if the interest is at any time thirty days

City of Washington.

in arrear, the whole principal to be sued for and recovered.

By order: **WM. HARWOOD, Clerk.**

By **THE SENATE, Dec. 23, 1799.**

Read the first and second time, by especial order, and assented to.

By order: **A. VAN HORN, Clerk.**

Uriah Forrest and James M. Lingan's letter to the Commissioners.

FEBRUARY 28, 1800.

GENTLEMEN: We expect that if we comply with your wish, and become sureties to the State of Maryland, you will consider that all the property in the city heretofore sold or contracted for, and where payments have not been made, (excepting the property pledged by the act of Congress, to secure the loan of \$300,000) will be held as a security for the repayment of this money (say \$50,000) to the State; and if you should think it advisable, you will, on reasonable notice, proceed to sell the property, or such parts as may be necessary, and pay over the notes, or the money arising therefrom, to the State, in discharge of this specific debt.

We are respectfully, gentlemen, your most obedient servants,

**URIAH FORREST,
JAS. M. LINGAN.**

The **COMMISSIONERS, &c, Washington.**

Answer of Commissioners to Messrs. Forrest and Lingan's letter of this date.

FEBRUARY 28, 1800.

GENTLEMEN: We are favored with your letter of this day, and think the terms asked by you perfectly just and reasonable, and have no hesitation in saying we will readily agree to them.

We are, gentlemen, your obedient servants,

**GUSTAVUS SCOTT.
WILLIAM THORNTON.**

Messrs. LINGAN & FORREST.

G—1.

COMMISSIONERS' OFFICE, Jan. 28, 1801.

Schedule of public property on hand belonging to the Federal seat.

1,504 building lots, southwest of Massachusetts avenue, estimated at \$343 each -	\$515,872 00
3,178½ building lots, northeast of said avenue, estimated at \$105 each -	333,747 00
2,043 feet front of lots, binding on navigable water, estimated at \$12 71 per foot front -	25,979 00
Four wharves, cost -	3,221 88
Island, containing freestone quarries in Aquia creek, cost -	6,000, 00
	\$884,819 88
Debts due to the Commissioners, which are deemed good -	144,125 80
	\$1,028, 945 68

Debts contracted on the credit of the above fund - - -

360,881 05

Fund remaining, clear amount - **\$668,064 63**

THOMAS MUNROE,
Clerk to the Commissioners.

[Table G—2, is a list of balances which appear to be due to the Commissioners of the City of Washington on the 1st January, 1801, exclusive of interest, amounting to \$140,032 33.]

[Table G—3, is a list of notes passed for the purchase money of lots sold at public sale for default in payment by Morris and Nicholson, the original purchasers thereof; the amount of the principal of which said notes is included in the balance of \$195,241 43, stated to be due from said Morris and Nicholson, in the document herewith exhibited, marked G—2. The amount of said notes, when paid, to be credited in account to said Morris and Nicholson.]

[Table G—4, is a list of debts due from the Commissioners of the City of Washington on the 1st of January, 1801, as correctly as can be ascertained, amounting to \$360,881 05.]

[Table G—5, is a list of balances becoming due to the Commissioners of the City of Washington, in the year 1801, for lots purchased, amounting to \$4,093 47.]

H.

Acts passed by the General Assembly of Maryland concerning the Territory of Columbia and the City of Washington.

An Act for the cession of ten miles square, or any less quantity of territory within this State, to the United States, in Congress assembled, for the permanent seat of the General Government.—(Passed Dec. 3, 1789.)

Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens in the western frontier: And whereas it appears to this Assembly, that a situation combining all the considerations and advantages before recited may be had on the banks of the river Potomac, above tide-water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessities and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia, may participate in such location:

Be it therefore enacted by the General Assembly,

City of Washington.

That a tract of country, not exceeding ten miles square, or any less quantity, to be located within the limits of this State, and in any part thereof as Congress may by law direct, shall be, and the same is hereby forever, ceded and relinquished to the Congress and the Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of government of the United States.

Provided, That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

And provided, also, That the jurisdiction of the laws of this commonwealth over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine, until Congress, having accepted the said cession, shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

An act concerning the Territory of Columbia, and the City of Washington.—(Passed Dec. 19, 1791.)

Whereas the President of the United States, by virtue of several acts of Congress, and acts of the Assemblies of Virginia and Maryland, by his proclamation dated at Georgetown, on the thirtieth day of March, seventeen hundred and ninety-one, did declare and make known, that the whole of the territory of ten miles square, for the permanent seat of Government of the United States, shall be located and included within the four lines following; that is to say, beginning at Jones's Point, being the upper point of Hunting creek, in Virginia, and at an angle in the outset of forty-five degrees west of the north, and running a direct line ten miles for the first line; then beginning again at the same Jones's Point, and running another direct line at a right angle with the first, across the Potomac, ten miles for the second line; then from the terminations of the said first and second lines, running two other direct lines, ten miles each, the one crossing the Eastern Branch and the other the Potomac, and meeting each other in a point; which has since been called the Territory of Columbia; and whereas Notley Young, Daniel Carroll, of Duddington, and many others, proprietors of the greater part of the land hereinafter mentioned to have been laid out in a city, came into an agreement, and have conveyed their lands in trust to Thomas Beall, son of George, and John Mackall Gantt, whereby they have subjected their lands to be laid out as a city, given up part to the United States, and subjected other part to be sold to raise money as a donation to be employed according to the act of Congress for establishing the temporary and permanent seat of the Government of the United States, under and

upon the terms and conditions contained in each of the said deeds; and many of the proprietors of lots in Carrollsbury and Hamburg have also come into an agreement, subjecting their lots to be laid out anew, giving up one-half of the quantity thereof to be sold, and the money thence arising to be applied as a donation as aforesaid, and they to be reinstated in one half the quantity of their lots in the new location, or otherwise compensated in land in a different situation within the city, by agreement between the Commissioners aforesaid and them; and, in case of disagreement, that then a just and full compensation shall be made in money; yet some of the proprietors of lots in Carrollsbury and Hamburg, as well as some of the proprietors of other lands, have not, from imbecility and other causes, come into any agreement concerning their lands within the limits hereinafter mentioned, but a very great proportion of the landholders having agreed on the same terms, the President of the United States directed a city to be laid out, comprehending all the lands beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence along the middle of the said road, to a stone standing on the east side of the Reedy branch of Goose creek; then southeasterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern Branch ferry; thence south to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek to the Eastern Branch; then east, parallel to the said east and west lines, to the Eastern Branch; then with the waters of the Eastern Branch, Potomac river, and Rock creek, to the beginning, which has since been called the City of Washington: and whereas it appears to this General Assembly highly just and expedient that all the lands within the said city should contribute, in due proportion, in the means which have already very greatly enhanced the value of the whole; that an incontrovertible title ought to be made to the purchasers, under public sanction; that allowing foreigners to hold land within the said territory will greatly contribute to the improvement and population thereof; and that many temporary provisions will be necessary, till Congress exercise the jurisdiction and government over the said Territory: And whereas in the cession of this State, heretofore made, of Territory for the Government of the United States, the lines of such cession could not be particularly designated; and it being expedient and proper that the same should be recognised in the acts of this State:

2. *Be it enacted by the General Assembly of Maryland,* That all the part of the said Territory, called Columbia, which lies within the limits of this State, shall be, and the same is hereby acknowledged to be, forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and

City of Washington.

effect of the eighth section of the first article of the constitution of Government of the United States: *Provided*, That nothing herein contained shall be so construed to vest in the United States any right of property in the soil, as to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States: *And provided, Also*, That the jurisdiction of the laws of this State, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the Constitution before recited.

3. *And be it enacted*, That all the lands belonging to minors, persons absent out of the State, married women, or persons *non compos mentis*, or lands the property of this State, within the limits of Carrollsburg and Hamburg, shall be and are hereby subjected to the terms and conditions hereinbefore recited, as to the lots where the proprietors thereof have agreed concerning the same; and all the other lands belonging as aforesaid, within the limits of the said City of Washington, shall be and are hereby subjected to the same terms and conditions as the said Notley Young, Daniel Carroll of Duddington, and others, have by their said agreements and deeds, subjected their lands to; and where no conveyances have been made, the legal estate and trust are hereby invested in the said Thomas Beall, son of George, and John Mackall Gantt, in the same manner as if each proprietor had been competent to make, and had made, a legal conveyance of his or her land, according to the form of those already mentioned, with proper acknowledgements of the execution thereof, and, where necessary, of release of dower; and in every case where the proprietor is an infant, a married woman, insane, absent out of this State, or shall not attend on three months' advertisement of notice in the Maryland Journal, and Baltimore Advertiser, the Maryland Herald, and in the Georgetown and Alexandria papers, so that allotment cannot take place by agreement, the Commissioners aforesaid, or any two of them, may allot and assign the portion or share of such proprietor, as near the old situation as may be, in Carrollsburg and Hamburg, and to the full value of what the party might claim under the terms before recited; and as to the other lands within the said city, the Commissioners aforesaid, or any two of them, shall make such allotment and assignment, within the lands belonging to the same person, in alternate lots, determining by lot or ballot whether the party shall begin with the lowest number: *Provided*, That in the cases of coverture and infancy, if the husband, guardian, or next friend, will agree with the Commissioners, or any two of them, then an effectual division may be made by consent; and in case of contrary claims, if the claimants will not jointly agree, the Commissioners may proceed as if the proprietor was absent; and all persons to whom allotments and assignments of lands shall be made by the Commissioners, or any two of them, on consent

and agreement, or pursuant to this act without consent, shall hold the same in their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances, as their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances, as their former estate and interest were subject to, and as if the same had been actually reconveyed pursuant to the said deed in trust.

4. *And be it enacted*, That where the proprietor or proprietors, possessor or possessors, of any lands within the limits of the City of Washington, or within the limits of Carrollsburg and Hamburg, who have not already, or who shall not within three months after the passage of this act, execute deeds in trust to the aforesaid Thomas Beall, and John M. Gantt, of all their lands within the limits of the said City of Washington, and on the terms and conditions contained in the deeds already executed by Notley Young and others, and execute deeds in trust to the said Thomas Beall and John M. Gantt, of all their lots in the towns of Carrollsburg and Hamburg, on the same terms and conditions mentioned in the deeds already executed by the greater part of the proprietors of lots in the said towns, the said Commissioners, or any two of them, shall and may, at any time or times thereafter, issue a process directed to the Sheriff of Prince George's county, commanding him, in the name of the State, to summon five good substantial freeholders, who are not of kin to any proprietor or proprietors of the land aforesaid, and who are not proprietors themselves, to meet on a certain day, and at a certain place, within the limits of the said city, to inquire of the value of the estate of such proprietor or proprietors, possessor or possessors; on which day and place the said sheriff shall attend, with the freeholders by him summoned; which freeholders shall take the following oath or affirmation, on the land to be by them valued, to wit: "I A. B., do solemnly swear (or affirm,) that I will, to the best of my judgment, value the lands of C. D. now to be valued, so as to do equal right and justice to the said C. D. and to the public, taking into consideration all circumstances," and shall then proceed to value the said lands; and such valuation, under their hands and seals, and under the hand and seal of the said sheriff, shall be annexed to the said process, and returned by the sheriff to the clerk appointed by virtue of this act, who shall make record of the same; and the said lands shall, on the payment of such valuation, be, and are hereby, vested in the said Commissioners, in trust, to be disposed of by them, or otherwise employed to the use of the said City of Washington; and the sheriff aforesaid and freeholders aforesaid shall be allowed the same fees for their trouble as are allowed to a sheriff and jurymen in executing a writ of inquiry; and in all cases where the proprietor or possessor is a tenant in right of dower, or by the courtesy, the freeholders aforesaid shall ascertain the annual value of the lands and the gross value of such estate therein; and,

City of Washington.

upon paying such gross value, or securing to the possessor the payment of the annual valuation, at the option of the proprietor or possessor, the Commissioners shall be, and are hereby, vested with the whole estate of such tenant, in manner and for the uses and purposes aforesaid.

5. *And be it enacted*, That all the squares, lots, pieces, and parcels of land, within the said city, which have been or shall be appropriated for the use of the United States, and also the streets, shall remain and be for the use of the United States; and all the lots and parcels which have been or shall be sold to raise money as a donation as aforesaid, shall remain and be to the purchasers, according to the terms and conditions of their respective purchases; and purchases and leases from private persons claiming to be proprietors, and having, or those under whom they claim having, been in possession of the lands purchased or leased, in their own right, five whole years next before the passing of this act, shall be good and effectual for the estate, and on the terms and conditions of such purchases and leases, respectively, without impeachment, and against any contrary title now existing; but if any person hath made a conveyance, or shall make a conveyance or lease, of any lands within the limits of the said city, not having right and title to do so, the person who might be entitled to recover the land under a contrary title now existing may, either by way of ejectment against the tenant, or in action for money had and received for his use against the bargainer or lessor, his heirs, executors, administrators, or devisees, as the case may require, recover all money received by him for the squares, pieces, or parcels, appropriated for the use of the United States, as well as for lots or parcels sold, and rents received, by the person not having title as aforesaid, with interest from the time of the receipt; and, on such recovery in ejectment, where the land is in lease, the tenant shall thereafter hold under, and pay the rent reserved to, the person making title to and recovering the land; but the possession *bona fide* acquired in none of the said cases shall be changed.

6. *And be it enacted*, That any foreigner may, by deed or will hereafter to be made, take and hold lands within that part of the said territory which lies within this State, in the same manner as if he was a citizen of this State, and the same lands may be conveyed by him, and transmitted to, and be inherited by, his heirs or relations, as if he and they were citizens of this State: *Provided*, That no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen.

7. *And be it enacted*, That the said Commissioners, or any two of them, may appoint a clerk for recording deeds of lands within the said Territory, who shall provide a proper book for the purpose, and therein record, in a strong legible hand, all deeds duly acknowledged, of lands in the said Territory, delivered to him to be recorded, and in the same book make due entries of all divisions and allotments of lands and lots made by the Commissioners in pursuance of this act, and certificates granted by them of sales, and the pur-

chase money having been paid, with a proper alphabet in the same book of the deeds and entries aforesaid; and the same book shall carefully preserve, and deliver over to the Commissioners aforesaid, or their successors, or such person or persons as Congress shall hereafter appoint; which clerk shall continue such during good behaviour, and shall be removable only on conviction of misbehaviour in a court of law; but before he acts as such, he shall take an oath, or affirmation, well and truly to execute his office, and he shall be entitled to the same fees as are or may be allowed to the clerks of the county courts for searches, copying, and recording.

8. *And be it enacted*, That acknowledgments of deeds made before a person in the manner and certified as the laws of this State direct, or made before and certified by either of the Commissioners, shall be effectual; and that no deed hereafter to be made of or for lands within that part of the said territory which lies within this State, shall operate as a legal conveyance; nor shall any lease for more than seven years be effectual, unless the deed shall have been acknowledged as aforesaid, and delivered to the said clerk to be recorded within six calendar months from the date thereof.

9. *And be it enacted*, That the Commissioners aforesaid, or some two of them, shall direct an entry to be made in the said record book of every allotment and assignment to the respective proprietors, in pursuance of this act.

10. *And*, for the encouragement of master builders to undertake the building and finishing houses within the said city, by securing to them a just and effectual remedy for their advances and earnings, *Be it enacted*, That for all sums due and owing, on written contracts, for building any house in said city, or the brick work, or carpenters' or joiners' work thereon, the undertaker, or workman, employed by the person for whose use the house shall be built, shall have a lien on the house and the ground on which the same is erected, as well as for the materials found by him; provided the said written contract shall have been acknowledged before one of the Commissioners, a justice of the peace, or an alderman of the corporation of Georgetown, and recorded in the office of the clerk for recording deeds herein created, within six calendar months from the time of acknowledgment as aforesaid; and if, within two years after the last of the work is done, he proceeds in equity, he shall have remedy as upon a mortgage; or, if he proceeds at law within the same time, he may have execution against the house and land, in whose hands soever the same may be; but this remedy shall be considered as additional only, nor shall, as to the land, take place of any legal incumbrance made prior to the commencement of such claim.

11. *And be it enacted*, That the Treasurer of the Western Shore be empowered and required to pay the seventy-two thousand dollars agreed to be advanced to the President by resolutions of the last session of Assembly, in sums as the same may come to his hands, on the appointed funds,

without waiting for the day appointed for the payment thereof.

12. *And be it enacted*, That the Commissioners aforesaid for the time being, or any two of them, shall, from time to time, until Congress shall exercise the jurisdiction and government within the said territory, have power to license the building of wharves in the waters of the Potomac and the Eastern Branch, adjoining the said city, of the materials, in the manner, and of the extent, they may judge durable, convenient, and agreeing with general order; but no license shall be granted to one to build a wharf before the land of another, nor shall any wharf be built in the said waters without license as aforesaid; and if any wharf shall be built without such license, or different therefrom, the same is hereby declared a common nuisance; they may also, from time to time, make regulations for the discharge and laying of ballast from ships or vessels lying in the Potomac river, above the lower line in said territory and Georgetown, and from ships and vessels lying in the Eastern Branch; they may also, from time to time, make regulations for landing and laying materials for building the said city, for disposing and laying earth which may be dug out of the wells, cellars, and foundations, and for ascertaining the thickness of the walls of houses, and to enforce the observance of all such regulations, by appointing penalties for a breach of any one of them, not exceeding ten pounds current money, which may be recovered in the name of the said Commissioners, by warrant, before a justice of the peace, as in case of small debts, and disposed of as a donation for the purposes of the said act of Congress; and the said Commissioners, or any two of them, may grant licenses for retailing distilled spirits within the limits of the said city, and suspend or declare the same void; and if any person shall retail or sell any distilled spirits, mixed or unmixed, in less quantity than ten gallons to the same person, or at the same time actually delivered, he or she shall forfeit for every such sale three pounds, to be recovered and applied as aforesaid.

13. *And be it enacted*, That an act of Assembly of this State, to condemn lands, if necessary, for the public buildings of the United States, be and is hereby repealed.

[Communicated to the House of Reps., Feb. 27, 1801.]

Mr. GRISWOLD, from the committee who were appointed to inquire into the expenditure of money made by the Commissioners of the City of Washington, the disposition of public property made by them, and generally into all the transactions of the Commissioners which relate to the trust confided to them by the President of the United States, made the following report:

That the short period which has elapsed since they have been possessed of the documents relating to the transactions of the Commissioners, the imperfect situation of those documents in several particulars, and the complicated nature of the inquiry, will prevent the committee from presenting to the House that full view of the subject which

was desired. They deem, it, however, their duty to submit the result of their inquiry, so far as the same has been made.

By the general account of receipts and expenditures, hereunto annexed, it appears that the Commissioners have expended more than one million of dollars on various subjects, which are partially detailed in that statement. Whether those expenditures have been made with economy, or not, it is not necessary for the committee to decide, as the House will possess the same information which the committee possess on this point. It may, however, be proper to remark that the principal objects of expense have been the Capitol, the President's house, and the two buildings erected for the accommodation of the Executive Departments; and that the situation of those buildings, being under the eye of every member of the Legislature, cannot want a particular description.

As large as these expenditures have been, it is understood that the accounts of the Commissioners have not been regularly audited by any public officer, but have rested on their own statements.

By the report made by the Commissioners to the President of the United States, and by him transmitted to Congress during the present session, it appears that the site of the City of Washington was conveyed by the original proprietors to certain confidential persons, in trust, for certain uses which were defined in the deeds delivered to the trustees, a copy of which is annexed to the Commissioners' report; that the trustees have conveyed to the Commissioners, for the use of the United States, agreeably to the provisions of those deeds, the building lots which belonged to the public, and were laid down on the plan of the city, but that the trustees have declined to convey the streets of the city and the public squares and other grounds designated and appropriated for public uses.

The committee have thought it their duty to ascertain the causes which induced the trustees to refuse their deeds of this part of the public property; and, without pronouncing whether the trustees have conducted correctly or not, they understand that the trustees claim that they held these lands as well for the benefit of the proprietors as for the public; that the price allowed to the proprietors for those squares and public grounds being comparatively small, it was expected that these grounds should forever remain unoccupied, except by necessary public buildings; that the areas which they furnished should remain open for general convenience, and thereby increase the value of the building lots, and particularly those lots which adjoined those public grounds; that, under these impressions, and after receiving a remonstrance from some of the proprietors, they deemed it proper, in faithfulness to the parties concerned, to require that, before they made a conveyance of this property, the principle should be settled that the public grounds should not, after the same were conveyed, be converted by the Commissioners into building lots; that the Commissioners, however, declined establishing that principle, and claimed the right of converting such parts of the public ground into building lots as should be afterwards judged proper.

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The trustees further state that the plan of the city has been varied more than once, and that some of the public grounds which are delineated upon a plan which was engraved and circulated by the Commissioners as a true plan of the city, and is now in the hands of the members of the Legislature, have since been surveyed by the Commissioners into building lots; that, under these circumstances, the trustees did not believe that, in justice to the proprietors, they could convey these public grounds.

The committee have likewise understood that, in consequence of the contracts entered into with Morris, Greenleaf, and Nicholson, for the sale of a large number of the building lots belonging to the public, and the failure of payment on their part, and the subsequent transactions which have grown out of that contract, some doubts have been entertained respecting the titles to a considerable part of those lots. *These doubts*, whether well or ill founded, must necessarily embarrass the sale of those lots, and ought, in the opinion of the committee, to be removed by a law of the National Legislature to establish titles both in law and chancery, where lands shall be resold, under proper regulations, to raise the purchase money which shall fall due from the first purchaser.

The Commissioners undoubtedly possess much better means of judging of the value of the building lots belonging to the public than the committee; but it could not escape the observation of the committee that the actual sales which have been made for cash since the Board of Commissioners was established cannot, in their opinion, support the estimate which the Commissioners have made of this property; and, whatever may be the product of sales hereafter, the committee believe that the Government cannot rely upon that fund for completing the objects which the Legislature may deem necessary for the accommodation of Government.

The view which the committee have taken of this subject has been necessarily imperfect, but it

has satisfied them that, as the Executive Departments of the Government are now established at the City of Washington, the expense of the Board of Commissioners may very well be saved; that the business of that board may with propriety be transferred to the Treasury Department; and that it will be proper to require that the Commissioners account with the accounting officers of the Treasury for the moneys received and expended by them.

The committee likewise believe that a plan of the City of Washington ought to be prepared, and, at the next session of Congress, to receive the sanction of the Legislature, and means taken to obtain from the trustees a deed of the streets and public grounds, conformably to such plan, for the use of the United States; and that a law ought to pass for quieting titles in the District of Columbia, by authorizing the sale of lands contracted to be sold where the purchase money shall not be paid within the time limited for payment.

Conformably to the opinion herein expressed, the committee respectfully submit to the House the following resolutions:

Resolved, That a committee be appointed to prepare and report a bill to abolish the Board of Commissioners of the City of Washington, and to direct that the business of that board be transferred to the Department of the Treasury.

Resolved, That a committee be appointed to prepare and report a bill directing the Secretary of the Treasury, under direction of the President of the United States, to prepare a plan of the City of Washington, delineating the streets, squares, and public grounds therein, and to report the same to Congress, in December next.

Resolved, That a committee be appointed to prepare and report a bill to authorize the sale of lands in the District of Columbia, under proper regulations, to raise the moneys which may at any time be due and unpaid on contracts for the sale of such lands.

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Account of receipts and expenditures by the Commissioners of the City of Washington, District of Columbia, from the time of their appointment to the 18th of May, 1796; since which day accounts have been rendered half-yearly.

Dr.

Cr.

RECEIPTS.	Amount received.	EXPENDITURES.	Amount 1791.	Amount 1792.	Amount 1793.	Amount 1794.	Amount 1795.	Amount between Jan. 1 and May 18, 1796.	Total amount.
Donation by the State of Virginia	\$120,000 00	Capitol	-	-	8,950 71	25,887 86	9,456 20	105,365 93	
Donation by Maryland	72,000 00	President's house	-	-	19,716 33	37,209 16	8,431 66	112,513 37	
Sales of lots	173,109 91	City of Washington, (see note, next page)	-	4,926 30	5,624 88	4,930 97	5,106 81	3,007 87	26,098 33
Loan from the Bank of Columbia	30,000 00	Commissioners' Office	-	7,427 80	83 73	-	-	8,536 37	11,543 53
Leonard Harbaugh, refunded by him for part of the cost of the stone bridges over Rock creek, in consequence of defective work	600 00	Surveying Department, (see note, next page)	-	164 67	12,344 32	278 86	5,002 03	909 66	24,145 92
John Dobson refunded, for part of sums advanced to him as a contractor for doing freestone work at the Capitol	1,310 51	Hospital for sick laborers	-	-	-	5,624 55	344 69	313 84	1,981 74
Materials sold, which were unfit for use, or not wanted for the public buildings.	917 62	Raffling account, (see note, next page)	-	-	-	231 27	1,313 25	450 66	735 04
Dividends on shares in Bank of Columbia originally subscribed for by the Commissioners	1,833 50	Bridge over Tiber creek	-	-	-	342 04	-	-	735 04
		Wharf at the Eastern Branch	-	-	-	388 04	-	-	1,046 18
		Freestone quarries at Aquia, (see note, next page)	-	8,054 81	9,119 98	11,965 11	698 09	29,67	29,417 38
		Ground appropriated to public use	-	1,330 38	1,766 67	-	2,000 00	3,072 16	8,319 31
		Foundation stone quarry in the City of Washington	-	-	-	291 56	-	-	291 56
		Temporary buildings for workmen	-	1,765 80	994 36	316 30	205 20	-	3,223 36
		Wharf account	-	1,334 51	523 79	-	-	-	1,858 30
		White oak swamp, (see note, next page)	-	6,189 12	-	-	736 13	-	6,189 12
		Brick buildings	-	-	217 38	945 27	-	-	1,945 78
		Brick making account, (see note next page)	-	-	573 33	-	-	-	573 33
		Caseway account	-	3,209 09	-	-	-	-	3,209 09
		Provision account	-	-	6,237 14	-	-	-	6,237 14
		Stone wharf at Stone bridge	-	3,708 75	3,090 60	5,009 92	-	-	11,809 27
		Stone bridge at the mouth of Rock creek, (see note, next page)	-	-	315 73	-	-	-	315 73
		Canal from Tiber creek to James's creek	-	8,631 77	4,053 11	-	1,241 42	-	12,744 88
		Utensils of various kinds	-	1,039 91	2,133 33	1,600 00	-	-	4,774 75
		Post road through the City of Washington	3 00	332 33	337 60	26 40	-	-	1,376 37
		Engraved plans of the city and territory	-	1,200 00	314 15	63 02	-	-	1,577 17
		Draw bridge over Rock creek	-	-	-	1,000 00	-	-	1,500 00
		Advances on account to contractors for freestone, timber, and bricks	-	-	-	-	8,710 85	9,498 91	19,309 76
		Shares in the Bank of Columbia, being part of 2,000 originally subscribed for, all of which have since been sold; but a part of the purchase money of those last sold was not due on the 18th of May, 1796	-	-	-	-	-	-	2,613 40
		Advanced on a contract for Indian meal, of which partial deliveries have been made, but the quantity is unknown, no account having been rendered by the contractor: suit depending	-	-	-	300 00	-	-	300 00
		Supposed errors and omissions prior to the 1st of May, 1795	-	-	-	-	-	-	-
		Cash in the Commissioners' hands on the 18th of May, 1796	-	-	-	-	-	-	-
			\$3 00	\$849,375 24	\$77,596 13	\$297,854 99	\$137,613 27	\$40,535 50	\$406,261 84

City of Washington.

Recapitulation of the foregoing Account.

RECEIPTS.	Amount received.	EXPENDITURES.	Amount from 18th May, 1796, to 18th Nov. 1796.	Amount from 18th Nov. 1796, to 18th Nov. 1797.	Amount from 18th Nov. 1797, to 18th Nov. 1798.	Amount from 18th Nov. 1798, to 18th Nov. 1799.	Amount from 18th Nov. 1799, to 18th Nov. 1800.	Total amount.
Receipts for semi-annual accounts rendered -	\$640,905 52	Expenditures per semi-annual accounts rendered -	\$115,836 73	\$160,847 68	\$122,798 61	\$116,157 24	\$115,304 91	\$630,945 17
Receipts per foregoing account -	406,261 84	Expenditures per foregoing account -	-	-	-	-	-	405,947 95
		Cash in the Commissioners' hands, 18th Nov. 1800.	-	-	-	-	-	10,273 24
	\$1,047,167 36							\$1,047,167 36

Notes to the table on the preceding page.

City of Washington—Includes commissions, discounts, recording squares in the district office, salary of a principal overseer, and all expenses of persons employed for general surveys.
Surveying Department—Includes survey of the District and city, opening and ascertaining level of streets, purchasing and planting bound-stones, and registering and calculating squares, as divided into lots.
Rafting Account—Expense of rafting the timber for the different buildings, and other public purposes indiscriminately.
Freestone Quarries at Aquia—Six thousand dollars paid for the island containing these quarries, and balance for quarrying the stone and incidental expenses.
White-oak Swamp—The Commissioners purchased the timber standing, had it cut down, and prepared for public use.
Brick-making Account—The bricks were made and used for public purposes generally, and no particular account kept of the number used on the respective buildings.
Stone Bridge at the Mouth of Rock Creek—Deducting the sums paid and secured to the public for ground ceded for the erection of this bridge twelve hundred dollars, refunded by the contractor for defective work, the real cost to the public will be only two thousand two hundred and eleven dollars and fifty-five cents.

(Errors and omissions excepted.)

COMMISSIONERS' OFFICE, WASHINGTON, February 6, 1801.

THOMAS MUNROE, Clerk Com.

*Books and Papers destroyed by fire in the War Department, in 1800.***BOOKS AND PAPERS DESTROYED BY FIRE
IN THE WAR OFFICE, IN 1800.**

[Communicated to the House of Representatives, February 17, 1801.]

WAR DEPARTMENT, Feb. 12, 1801.

The acting Secretary for the Department of War, in obedience to the direction of the House of Representatives, expressed in their resolution of the 2d instant, that he "communicate to the House such information as may be in his power in relation to the destruction of the books and papers in that Department by fire; designating particularly what description of books and papers has been lost thereby, and what the probable effect of such loss will be in the adjustment of the unsettled accounts of the United States," respectfully reports:

That he has very little doubt that the fire which, on the evening of the 8th of November last, entirely destroyed the house then occupied by the Department of War, was communicated from the adjoining house, as it was first discovered in the library, which was arranged against the partition wall directly behind the fire-place of that house, and at the distance of the whole width of the house (twenty-five or twenty-six feet) from the only fire-place in the apartment; in which last fire-place a fire had not been made on that day or for upwards of three weeks immediately preceding.

That the rapidity with which a large library extended the flames, on the admission of fresh air into the room, entirely precluded the possibility of saving any books or papers that were deposited on the second or third floor; the whole of the former, and one apartment on the latter, then being occupied as the Secretary's office.

That not a book or paper of the office was saved, except one volume, in which the contracts and deeds for lands sold to the United States were recorded. This had been taken into the Accountant's apartments, on the ground floor, in the morning, for the adjustment of some accounts, and was saved, with his books and papers which were in those apartments.

That, immediately after the fire, measures were taken to secure a renewal of the most necessary and important documents in all possible cases. That the lists of invalid pensioners have already been renewed, and sundry communications of importance from the Department returned and copied. That additions to these are still making, and that the examination of the claims to land for services in the Virginia line on Continental establishment, as directed by law, though now suspended, is expected soon to be in the usual state of progression.

That the library, which was entirely destroyed, was extensive, and contained many military works of celebrity, which it is scarcely expected can be replaced. In order, however, to effect so desirable an object as far as may be, the Secretary has added a proportionate sum to the estimated appropriation for the present year for the purpose.

That of the claims for Continental military

bounty lands, the entries of which were, by the act of 2d of March, 1799, limited to the 1st day of January, 1802, many still remain unsatisfied. That, from the manner in which the grants were made, the checks and books being all lost, a great difficulty will oppose the renewing issues of warrants for those lands. The Secretary has recommended to applicants that all claims be filed in the office before the day on which the above-mentioned limitation will take place, in order that the examination of them may thereafter be made under such regulations as may be judged most proper to secure to the claimants their lawful rights, and protect the United States as much as possible from fraud and imposition.

That it is not presumed that any consequences to effect the adjustment of unsettled accounts will follow from the loss of the papers of the Secretary's office, the original directions for expenditures being, it is supposed, to be obtained on the exhibition of the accounts growing from them; and it is not probable that any material injury will result from the losses sustained in the Accountant's office; the specification of which, with the remarks of the Accountant thereon, follows, viz:

Relating to the accounts of the old Army.

Several cases containing muster and pay-rolls; others containing accounts and vouchers of sundry paymasters and agents for paying troops; and one case containing individual settlements made by the late Paymaster General and Commissioner of Army Accounts.

These papers could only be of use in the examination of claims for services prior to the establishment of the present Government, which, if not already settled, are all barred and foreclosed by acts of limitation. The loss will, therefore, not materially affect the unsettled accounts of the United States.

Relating to services and supplies under the present Government.

William Colfax's accounts, as contractor for the State of New York, from the 1st of January to the 31st of December, 1799.

Robert Ball's accounts, as contractor for North Carolina, for supplies furnished in 1799 and 1800.

These accounts had been examined, and the balances ascertained, but had not been entered on the principal books, owing to differences in the statements of the claimants and those made at this office, of which they had been informed, but had not finally removed the objections. No material inconvenience, it is thought, will arise from the loss of those accounts.

William Colfax & Co.'s accounts, as contractors for the States of New York, Massachusetts, Rhode Island, and Vermont, from the 1st of January to 31st of December, 1800.

This account had not been examined; the amounts are, therefore, only known from the claimants' own statements when they were rendered. It is therefore thought that no settlement can be made until a principle shall be fixed for the settlement of accounts in this situation.

Nathan Starr's accounts, as contractor for fur-

Books, &c., destroyed by fire in the Treasury Department, in 1801.

nishing swords, belts, and scabbards, per contract in 1779.

This account had not been examined, owing to a want of vouchers. It is probable that duplicates of the accounts can be furnished, and that no inconvenience will arise in the settlement.

Part of the vouchers belonging to the Paymaster General's accounts.

Some of the muster and pay-rolls of this account were lost, but they can all be replaced. No inconvenience but that of having copies made from duplicates in the possession of the Paymaster General will arise.

All which is respectfully submitted.

SAMUEL DEXTER,
Acting as Secretary of War.

BOOKS, &c., DESTROYED BY FIRE IN THE
TREASURY DEPARTMENT, IN 1801.

[Communicated to the House of Reps., Feb. 23, 1801.]

TREASURY DEPARTMENT,
February 23, 1801.

SIR: In obedience to the resolve of the House of Representatives of the 2d instant, I have the honor of transmitting herewith the best information it is in my power to obtain, in relation to the destruction of official books and papers by the fire in the building occupied by the Treasury Department. To the enclosed statements from the other officers of the Department, I have the pleasure to add, that the books and papers belonging immediately to my office, with the exception of a few official letters and documents which can be replaced, have been preserved. It is not probable that any great public inconvenience will be the consequence of the unfortunate accident which gave occasion to the inquiry.

I have the honor to be, very respectfully, sir, your obedient servant,

SAMUEL DEXTER.

HON. SPEAKER of the House of Reps.

TREASURY DEPARTMENT,
Comptroller's Office, Feb. 19, 1801.

SIR: In reply to your letter of the 4th instant, I have the honor to inform you, that after a careful and diligent examination, it does not appear that any records or documents appertaining to this office are missing in consequence of the late fire, from which any loss can result to the public, or to individuals. One book, in which sundry forms prescribed by this Department are recorded, has not yet appeared, though, as its destruction is highly improbable, expectations are entertained that it will eventually be found: if it should not, it can be replaced with some labor.

I have the honor to be, sir, with great respect, your obedient servant,

JOHN STEELE.

The Hon. SAMUEL DEXTER,
Secretary of the Treasury.

A list of books and papers destroyed or lost in the Auditor's office, in consequence of the fire which took place in the Treasury on Tuesday, the 20th of January 1801.

TREASURY DEPARTMENT,
Auditor's Office, Feb. 19, 1801.

1. The books containing copies of reports on all the accounts which have been adjusted since the establishment of the present Government, excepting those on the public debt funded at the Treasury, which being entered in a distinct set of books and kept in another room, were preserved. With the aid and expense of an extra clerk, the lost copies may be replaced, as the originals, with the statements and vouchers belonging to them, are deposited in the Register's office.

2. The books containing copies of various statements made by the Auditor and Accountants under the late Government. The originals of these are also in the Register's office, and new copies may be made from them, if necessary.

3. The ledgers and journals in which were entered the accounts settled by the late commissioner with the officers of the old quartermaster and commissary departments. The loss of these books adds to the difficulty of adjusting such of the accounts in these departments as remained open; but from examination which had been made, the greater part were found so defective as to leave little hope of a satisfactory statement. Some of them, however, though not passed, have been stated as far as the materials would admit. It is believed that few, if any, of the papers are lost.

4. The books in which were entered the accounts of the late secret and commercial committee. The papers being safe, no great inconvenience will result from the loss of the books, as few, if any of the transactions of this committee remain unsettled.

5. A number of claims exhibited by individuals, for services or supplies during the late war. Most of these had been presented in the first instance to the State Commissioners, and turned over by them to the Treasury. They had been all examined many years ago, and judged inadmissible; but as the register or list is gone with them, it is impossible to state the particular nature of each, or the names of the respective claimants.

6. An account rendered by the Bank of the United States, for the sale of 8 per cent. stock, under the last act authorizing a loan. A duplicate of this may be obtained.

7. An account of Hazen Kimball for the contingent expenses of the Office of State, which had been examined and was ready for stating. The vouchers cannot be replaced, but the particulars may be had from a book in which they were regularly entered by Mr. Kimball.

8. An account of Thomas Claxton, as agent for furnishing the Capitol. The vouchers had been all examined and found right, but the statement suspended until he should also render his account for furnishing the President's house, with which it had some connexion.

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9. The accounts and vouchers of Tench Francis, late Purveyor of Public Supplies, for purchases from July 1, 1797, to the month of September, 1798, accompanied by a general account current, stated by his executors; in which they claimed a balance. The examination of these accounts was nearly completed, but the final settlement of them suspended from a wish to bring into view the balances for or against him with the Departments of War and Navy, with which his accounts were also in a course of settlement. Duplicates of the abstracts and (it is understood) of the vouchers also, can be furnished.

10. Three partial or subordinate accounts of Israel Wheelen, the present purveyor. Duplicates of all these have been already furnished.

11. The accounts of the following gentlemen, acting as agents for the commissioners of the direct tax, in their respective States:

Joseph Israel, Delaware; Nathaniel Gilman, New Hampshire; James White, Tennessee; Stephen Bayard, New York; Paul Zantlinger, Pennsylvania; Thomas Davis, Massachusetts.

All these accounts, except the last, had been examined, and some of them, particularly the two first, would have been stated and passed the next day. The others were suspended, either for want of warrants, or some further explanation on particular points. As the vouchers, though much injured, are not entirely destroyed, it is probable that when they can be more thoroughly examined and properly arranged, they may be yet found sufficiently perfect to admit of settlement with at least some of the agents.

A few other accounts were also somewhat injured; but being still, however, in a state to be settled, a detail of them is deemed superfluous.

In addition to the foregoing, it is possible, and even probable, that in the course of business some other papers may be found missing, which are not recollected at this time; but none, it is believed, of much consequence.

R. HARRISON.

—
TREASURY DEPARTMENT,
Register's Office, Feb. 19, 1801.

The Register of the Treasury, upon the communication of the Secretary of the Treasury, of the 4th instant, transmitting a copy of the resolution of the House of Representatives of the United States, of Monday, the 2d of February, 1801, begs leave to report:

That upon the alarm of the late fire in the house occupied by the Treasury Department, all the books and records of the United States appertaining to his office, and which were deemed of primary importance, were removed from the fire-proof rooms occupied by the Register; and that, upon their being replaced, it does not appear, after a minute examination, that any of the books and records of the United States in his possession at the time of the late fire sustained either injury or loss, excepting statements Nos. 8,961, 10,919, and 11,349, with their respective vouchers, which were in a part of the building exposed to the fire. The official re-

ports upon those three statements having been preserved, and the accounts thereof closed in the Treasury books, it is presumed no injury can possibly arise from the want of those destroyed documents. Respectfully submitted.

JOSEPH NOURSE,
Register of the Treasury.

—
TREASURY OF THE UNITED STATES,
February 19, 1801.

SIR: In answer to your letter of the 4th instant, I can assure you that my office has not suffered any injury of the least consequence by the late fire.

I am, with respect, your most humble servant,
SAMUEL MEREDITH,
Treasurer of the United States.

SAMUEL DEXTER, Esq.,
Secretary of the Treasury.

—
TREASURY DEPARTMENT,
Revenue Office, Feb. 13, 1801.

SIR: I have paid due attention to a notice from, the House of Representatives, which you communicated to me on the 4th instant.

I have the satisfaction of assuring you that the books are all safe, and that I know of no paper missing from this office which can impede or in any manner affect the adjustment of the public accounts.

I am, with perfect respect, sir, your obedient servant,

WILLIAM MILLER,
Commissioner of the Revenue.

The Hon. SECRETARY OF THE TREASURY.

—
GENERAL STAMP OFFICE,
February 23, 1801.

SIR: In obedience to your request and the resolution of Congress on the 2d current, I have the honor to report, that I have been fortunate enough to reclaim all the papers belonging to the General Stamp Office, of any consideration, and that the public will sustain no material injury in this office by the unfortunate fire.

I am, with the most perfect respect and esteem, sir, your most obedient and most humble servant,

JOSHUA JOHNSON,
Superintendent of Stamps.

SAMUEL DEXTER, Esq.,
Secretary of the Treasury.

—
FIRES IN THE WAR AND TREASURY DEPARTMENTS.

[Communicated to the House of Reps., Feb. 28, 1801.]

Mr. NICHOLAS, from the committee appointed to inquire into the causes of the late fires in the War and Treasury Departments, made the following report:

That they have taken the depositions of all the persons from whom they had reason to expect any information, and herewith report them: those

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marked A relate to the fire in the War Office, and those marked B to the fire in the Treasury Department.

The committee having seen an assertion in a paper called the *Cabinet*, that, during the fire in the Treasury Department, persons were discovered in one of the rooms of that Department, in circumstances which excited suspicion, the committee called on the editor of that paper, and requested to be informed whether he could mention the names of any persons who were witnesses of that fact, or any other relating to the fires. By him they were referred to Lawson Pearson and Salem Roe; from whose depositions, and the deposition of John Woodside, (among the papers marked B,) it appears that the persons thus discovered were clerks of the Department employed in taking care of the books and papers.

It having been mentioned in the depositions of some of the witnesses, from whom the committee were taught to expect material information, that Mr. Oliver Wolcott, late Secretary of the Treasury, was seen at one end of the Treasury Department, during the fire therein, loading a cart with boxes and papers, the committee considering it as a circumstance which might be made to excite suspicion, and believing it was due to Mr. Wolcott to investigate thoroughly a fact of this nature, which had been partially disclosed by their means, have taken several depositions on that subject, which are herewith reported, marked C. From these depositions no suspicion can remain that the boxes and cases were not Mr. Wolcott's private property.

The committee do not think it necessary to make a minute report of their opinion on the facts of these several cases, as the depositions themselves will afford more satisfactory information; they report, as the general result of their inquiries, that it is probable the fire in the War Department was communicated from the fire-place in the adjoining house, and that there is no evidence whatever on which to found a suspicion of its originating in negligence or design; that, as to the origin of the fire in the Treasury Department, they have obtained no evidence which enables them to form a conjecture satisfactory to themselves: it would only be in their power to make an abstract of the testimony; and, in doing this, they might add to or diminish its force: and therefore choose to report it only in the words of the witnesses themselves.

A.

Mr. Loring, a clerk in the War Department, states, that, on the day of the 8th of November, 1800, (the evening of which the office was burnt,) he was engaged in filing and arranging the papers of the office, (which were very much deranged in consequence of removing first from Philadelphia, and afterwards from the store, commonly known by the name of Lear's store, in the City of Washington,) a business in which he had employed all his hours which were not immediately necessary for the routine of business common in the office;

that, having on that day nearly finished, he had determined to continue until he had completed the work, as he was anxious to have them arranged; that, in consequence, he remained an hour or an hour and a half after the other gentlemen of the Department had left it; that when he had finished the business he was engaged in, which was after three o'clock, he locked the door of the room, and carried the key thereof into the room of the messenger, which was in the kitchen; that the day having been uncommonly warm for the season, the fire had been reduced at about 11 o'clock in the morning, and that the door which led into the room usually occupied by the Secretary was ordered by the chief clerk to be opened in order to admit fresh air, (there having been no fire in that room on that day, or for three weeks and upwards prior to it;) that no more fire was made in the room in which he was employed that day; and that, when he left the room, he doubts whether there was fire enough on the hearth to have lighted a candle; that he went home to dine, and believed everything was perfectly secure in the office, as he looked into the Secretary's room to see if the windows were shut, and finding them to be so, he doubted not everything was safe; that, in the evening, about (he believes) six o'clock, or perhaps a little after, Mr. Brown, a clerk to the Accountant, came over to his lodgings and informed the gentlemen that the War Office was on fire; that Mr. Wolcott, and every other man in the house immediately ran over; that, when we approached the house, we observed the light very strong from the window over the door of the entrance of the house immediately adjoining the library, which was arranged along the partition wall of that building, and the adjoining house occupied by Mr. Jackson, and against which the chimney of Mr. Jackson's house stood; that he, with Mr. Wolcott, went immediately up stairs, and he, Mr. L., being first, opened the door of the room generally occupied by the chief clerk, viz: (the room immediately in the rear of the Secretary's, the one which was on fire;) that, when he opened the door, the force of the smoke was so great as to stagger him; he, however, recovered himself, and made a second attempt, but to no purpose; finding it impossible to save anything on that floor, he immediately left the house and went to the Treasury office for the engine, which, with assistance, he brought to the fire; but the house being in such a state, it proved ineffectual. That, on the morning after the fire, (Sunday,) he went over before breakfast to examine the partition wall; that he ventured as near as the walls, which were then tottering, would admit, and examined particularly as to the structure of the chimney; that, in viewing the partition wall, he did not doubt the fire was communicated from the chimney of the next house, as the partition wall was very thin, and the evident appearance of wooden blocks or bricks interspersed in it; and that it appeared to him that the wall was only the thickness of the length of a brick from the first floor to the second, and the thickness of the width of a brick from the second floor up to the roof; and knowing that a

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large library was extended along that wall; and upon the lower shelf of the library, about eight inches from the floor, stood a number of large volumes, behind which (for convenience) many pamphlets and loose papers were thrown; and he has no hesitation in saying, that he firmly believes it was from these causes that the fire was communicated.

With respect to the Treasury Department, Mr. L. has very little to say, which can give information or throw light on it; he has only to observe, that at about five o'clock in the evening of the — January, he, agreeably to an appointment he had made with Mr. Steele, left the hotel in which he lodged, directly opposite to the Treasury, to call for Mr. Steele, who was writing in his office; that, as he crossed the street, he saw large columns of smoke issuing from the two southeast chimneys of the office; he immediately entered the east door, which led to the centre of the building, through a narrow passage; that, in passing through this passage, he observed the smoke issuing from under the two first doors on the left side of the passage; that he did not stop to open either of them, his object being to get the engine out which stood in the hall; that not more than two or three persons were with him at the time, and that, with the assistance of one of them he broke open the front door and put the engine into the street. Immediately on doing this he returned into the passage, where he discovered several persons forcing the middle door, (or that which led to Mr. Ferrall's room,) which they immediately succeeded in. As soon as the door was opened, the flames and smoke rushed out in a diagonal line from the back of Mr. Ferrall's room, where his cases stood, which was the part of the room opposite to his fire-place. This is all he can say respecting it, as his whole attention and exertions were to check and conquer the flames; which, with great exertions, on all sides, was finally accomplished.

Sworn before me, the subscriber, one of the justices of the peace for Prince George's county, this 23d day of February, 1801,

RICHARD FORREST.

On the evening of 8th November last, about seven o'clock, P. M., I was alarmed with the cry of fire, and on inquiry it was the War Office; I immediately alarmed Mr. Hodgson and Mr. Wood, and desired them to bring with them buckets, and I unhung my garden gate, that free access might be had to my pump; I gave orders to fill all the buckets and tubs that were about the house, and took with me two buckets of water; when I got to the War Office the smoke was issuing out of the front windows like a cloud; soon afterwards the flames broke out of the front window over the front door; I was then asked by Mr. Watson, a clerk, to assist him in getting a ladder, but before we could procure the ladder the fire broke out of the back side of the house. I assisted about half an hour to save the papers, but on seeing that my own house was in danger, I left the fire and went home. The next day (Sunday) I went to see Mr.

Markward, to make inquiry how the fire originated, (Col. Burrows went with me;) he, Markward, could give us no satisfaction; we then went to the burnt house, and, on examining the walls, were of opinion that it had been communicated from the back of Mr. Jonathan Jackson's chimneys to the library; and, on further examination, we saw a number of places where wood had been let into the wall; and nearly at the back of the chimney of Mr. Jackson's house I saw a light through the wall, (and mentioned it to Col. Burrows,) which I suppose was the place that the fire got through to the library; and was further convinced, for the back part of the place is but four and a half inches thick. And further this deponent saith not.

WM. O'NEALE.

CITY OF WASHINGTON, Feb. 25, 1800.

The above deposition was taken by the committee, this 25th February, 1801; Wm. O'Neale being first sworn.

JOHN NICHOLAS, *Chairman.*

Thomas Y. Sprogel, being first sworn, deposeth and saith that at about three o'clock, P. M., of the day on which the War Office was consumed, he assisted in laying out the corpse of a Mr. Jackson, who died in the room adjoining to the room occupied by the Secretary of War, in which the fire appeared to originate; that at that time there was so little fire in the hearth, that he, this deponent, could with difficulty burn vinegar enough to correct the effect of the body on the air of the room. That while the house was on fire, he returned into the room where the corpse was laid, and found the fire totally extinguished to all appearance; that he was informed a fire had been kindled in the interval of his two visits to the room, and that it had been extinguished because it had a bad effect on the corpse. THOS. Y. SPROGEL.

Sworn to before me, this 27th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

B.

The testimony of Patrick Ferrall, principal clerk in the office of the Auditor of the Treasury, relative to the fire that took place on the 20th January last.

Having received a letter by the mail of the 19th from a mercantile house in Philadelphia, that required an answer by the return of post, not being enabled from the official duties of the office to write the answer during office hours of the 20th; on leaving the office between two and three o'clock, and not seeing Fogel, the messenger, in the hall, I mentioned to one of the other messengers to inform him when he came in to leave the key, as I should be back after dinner to write a letter. I returned between three and four o'clock, and found the key of the Auditor's room, which I opened and went into the room usually occupied by me, and wrote my letter; after which I locked the door, and went to the house occupied by the messenger, delivered him the key and the letter,

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desiring him to leave it at the post office before five o'clock. At my going in, and during my stay in the office, I observed not the least appearance of fire, but what was in the fire-place of the room where I was writing, which at the time was very low, being the remainder of that made in the early part of the day. After delivering the key to the messenger, I went over to a house in the neighborhood where a billiard-table is kept, where I remained, until the cry of fire was heard; when the whole of the persons that were there ran over to the office. On my entrance, finding the doors locked, I called on the messenger by name, who immediately appeared and delivered me the key of the Auditor's room, which I unlocked, and made to the door that opened into the room in which I had been writing; on opening which the smoke and flames gushed out with such violence, that I had nearly been suffocated. On which I returned into the entry and requested some persons that were there to break open the door; on this being done, I clearly perceived that the great body of the fire proceeded from three large cases, which were placed back of the fire-place in the room occupied by the Auditor. How or by what means this unfortunate accident took place, I do not deem myself competent to decide; but this I will say, I had neither hand nor deed in it.

P. FERRALL.

Sworn to before me, this 23d day of February, 1801.

JOHN NICHOLAS,

Chairman of the Committee.

The representation of Albright Fogle, Messenger to the Auditor's Office, respecting the fire which took place in the Treasury Department on the 20th of January, 1801.

The Auditor left his room on that day a little before two o'clock, when the fire in his fire-place was reduced so low that the ashes covered it close up, over which I placed the fender.

Mr. P. Ferrall left his room at about half past two o'clock on the same day, when his fire was also low. I covered it immediately with the fender, and locked the doors. The key leading to Mr. Ferrall's room was then, by his request, put into a certain place where he could have access to it after dinner.

I returned to the room about half after four o'clock, and found Mr. Ferrall writing at his desk; I inquired of him if I should put a stick on the fire, which he refused. About twenty minutes before five o'clock he called on me at my house, delivered me the key of the room and a letter, requesting me to put it in the post office; I then hastened to the office, examined the fire in the Auditor's room, raked up the remains of that in Mr. Ferrall's, covered it with the fender, and secured the windows and doors; at which time everything appeared, as usual, very safe from fire. About dusk, and some time after my return from the post office, I heard the first cry of fire; and, on opening the door of the Auditor's room, I did not perceive any fire, but a vast quantity of smoke came out, which prevented an entry at that time;

the door of Mr. Ferrall's room was then forced open, when the large cases and furniture in it, which stood close to the wall adjoining the Auditor's room, were all on fire; at that time I did not perceive anything on fire at the other end of the room, near the fire-place.

ALBRIGHT FOGLE.

Sworn to before me, this 23d of February, 1801.

JOHN NICHOLAS, *Chairman.*

JOHN WOODSIDE, clerk in the office of the Comptroller of the Treasury of the United States, upon his oath, deposeseth: That on the 20th day of January, 1801, having left the office about half past four, P. M., and gone to his place of lodging, about one hundred paces west of the building occupied by the Treasury Department, it being between sundown and dusk, approaching nearer the latter, when the deponent heard the cry of fire; upon which he immediately ran to the Treasury, from whence he saw smoke proceeding; and, upon his nearer approach, saw the smoke and flame issuing from the windows or window of the room occupied by the principal clerk in the office of the Auditor, which room is adjoining to the Auditor's, the latter being in the southeast part of the building.

The weather for the season had been moderate, as to cold, for a day or two preceding; but in the afternoon of the said 20th day of January, the wind had changed, and blew, especially at the time of the fire, cold and violently from the north-west.

The deponent, finding that the apartment in which the fire had commenced was all in flames, seeing sundry persons engaged in getting the engine ready, and not doubting the immediate assistance of other citizens, considered it most for the interests of the people to endeavor to save the books and papers in the two apartments up stairs of the office to which he was more immediately attached, viz: the Comptroller's, and that of his principal clerk, the latter being immediately over the one in flames; and therefore proceeded to these apartments as soon as they could be opened.

Early in the morning of the 21st, the day after the fire, as soon as there was light, the deponent, living in the vicinity, attended at the Department with a view to collect what papers might be found in a scattered state; and, before sunrise, went to the apartment where the fire had begun, and found the fender in the fire-place, in such a state as to lead, from appearances, to the conclusion that the fire had been carefully covered; the fender being somewhat in the form of part of a circle, the one edge resting upon the hearth, the other edge touching the back of the fire-place.

Since the fire, it having been proposed to the deponent to take the superintendence of the building, so far as respects the prevention of accidents by fire, he undertook the business confided to him; and, having been of opinion that the fire might have been communicated by the mantel-pieces, the deponent had an examination of one of the fire-places, upon which, apprehension of the probability of

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fire being communicated to the building thereby was not lessened; but, from the blocks placed in the jambs, for nailing the surbase and wash-board, being exposed to the fire of the flues of the chimneys from below, by sparks passing through open joints one quarter of an inch in width between the bricks, and these open joints being only about three inches from the block to the inner part of the chimney, additional ground was given to apprehend danger; as likewise from the blocks placed in the walls, immediately back of the fire-places, in the rooms in the east and west ends of the building.

These apprehensions were communicated to the Register of the Treasury, upon which orders were given to have removed every block or piece of wood, with the mantel-pieces, which might possibly endanger the building. In the execution of these orders, it was found that the blocks back of the fire-places, in the apartment occupied by the Commissioner of the Revenue, have the appearance of being in a degree scorched. In the same room, that is, the one adjoining the Commissioner's, a wedge of pine wood was taken out of the chimney jamb, which had been driven into an open joint between the bricks, which led directly into the flue of the fire-place in the room below. To this wedge the wash-board was nailed. The wedge was found burnt to coal at the end next to the chimney, and was scorched on the under part, the board nailed thereto having been also touched with fire.

In the room occupied by the superintendent of stamps an open joint was found, which led to the block to which the wash-board was fastened into the chimney of the fire-place below; this block did not appear to be scorched, but a quantity of soot had made its way through this open joint to the board to which the wash-board was nailed. The whole of the circumstances, taken together, afford just ground for very serious apprehensions of the liability of the place being set on fire by sparks, especially if the chimney should have taken fire.

Similar facts occurred in breaking out the blocks in the jamb of the fire-place in the room occupied by the Secretary of the Treasury, and in another apartment belonging to the said officer, adjoining to that of his principal clerk. Here the danger appeared to be much greater, as it did not arise from open joints leading eight or nine inches into the flues of the chimneys below, but from openings immediately from the blocks to the flues. In one instance, a hole an inch and a half in diameter was discovered, the block, &c. very much dried and smoked, if not scorched. In the other instance, several openings leading directly to the flue from the block to which the surbase was nailed, two pieces of bats lying between the block and the flue, which, not being close to each other, and having no mortar, caused the last mentioned openings, opposite to which the block and other wood appeared to be scorched, and the turpentine to have been extracted by the heat from the chimney.

In relation to the state of the room where the fire originated, the deponent saith that he made

a particular examination, and finds that the mantel-piece, except upon the south side, appears to have been burned or removed; that the blocks to which it was nailed appear to have been in part burnt on the outer surface next to the room, except one in a small degree scorched; that part of the mantel-piece on the south side of the fire-place, which remains standing, being burnt to coal upon the outside, which, if pulled down, the blocks to which it is nailed, it is supposed, will appear like those upon the other side of the fire-place, in some degree scorched or burnt.

In the said apartment, directly opposite the fire-place in the Auditor's room, there had been placed two blocks of wood, the uppermost fourteen inches in length, with two others upon a line, the right hand block four feet, the one on the left hand three feet and a quarter distant; these blocks were placed in the wall for the purpose of nailing the surbase thereto. The place where a block had been placed for nailing the wash-board is also back of the said fire-place, and nearly under the one already mentioned, and, like that, flanked upon the right and left with blocks, at the distances above mentioned; the block, from the opening in the wall, could not have been more than nine inches in length and five inches in width; the blocks upon the right and left of those back of the fire-place do not appear to have been burnt, except one upon the outside, next to the surbase, which appears to have been touched with fire.

The block behind the fire-place, to which the surbase was nailed, was burnt on the surface next to the room in which the fire originated, but that part of the said block which was within the wall had not any appearance of being scorched; the block immediately below, to which the wash-board had been nailed, the deponent did not see, as it was missing the first or second day after the fire, he having looked for it in the cellar, where he found the upper block.

The thickness of the wall back of the said fire-place is thirteen inches, by measurement, and deducting five inches, the width of the block, or rather depth of the place where it would appear a block had been, leaves eight inches brick between where the block had been and the fire in the Auditor's room; the joints between the bricks in the back of said fire-place appear to have been filled with mortar, except one joint about three-sixteenths of an inch wide, into which a piece of wood of that thickness can be inserted four inches, leaving, from the inner part of the joint, and the space which had been occupied by the block upon the opposite side, a thickness of four inches brick.

This deponent, on being asked, further saith, that he can discover no way in which the fire could have communicated from the fire-place in the Auditor's room to Mr. Ferrall's room, unless it was by the lower block to which the wash-board in Mr. Ferrall's room was nailed, which block was not to be found at the time this deponent examined the place.

JOHN WOODSIDE.

Sworn to before me, this 24th February, 1801.

JOHN NICHOLAS,
Chairman of the Committee.

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On a further examination, the said John Woodside says that he was employed in the first room on the left-hand side of the passage, on the second floor of the Treasury Department, which leads to the east end, at the time the door was forced open; and that he was endeavoring to remove the books and papers into the fire-proof room adjoining; that he believes several other persons were also employed in the same way with him at the time.

CITY OF WASHINGTON, Feb. 24, 1801.

On the evening of the 20th January, 1801, as I was going to Dr. Cunningham's, on business, I saw a great smoke arising near the President's House. I directly called fire! Mr. Cunningham was in his yard, and asked where; I answered on the President's square. He replied that it was shavings; I said no; then we both ran. I got to the Treasury Office first, and found it on fire; (it was between sunset and dark,) and the alarm of fire was general, and the bells were ringing. I called for buckets, and to man the pump at the north end of the building, which was soon done, and water passed as long as there was any to be had. When the pump sucked, I went to the south side, and began to form a line to Mr. Blodget's pump; this being done, I returned to the north side, and proposed to convey water into the rooms where the fire was; after some time the fire began to abate, and I went to Mr. Ferrall's room door and began to throw water where the greatest appearance of fire was; and after some time the room got dark, I got a candle to see if I could discover where the fire originated. I felt on the floor near the fire-place, and it was not burnt; I then felt several other places, and, on feeling near the jamb of the door leading from Mr. Ferrall's room to the Auditor's, in the recess of the said door, I put my hand on a hickory chunk about twelve or fifteen inches long, and about three inches in diameter; it appeared to be burnt at one end to a coal; there was bark on one end. I think it was hickory; it might not have been hickory, but I think it was. I then said that the building was set on fire by some evil-disposed person. About this time it was said that the building was on fire up stairs; I ran to give my assistance, met Mr. Wolcott, and requested him to give some directions concerning the papers; Mr. Wolcott said he had nothing to do with them, that he was not the Secretary, and it was as much as he could do to take care of his own private property. I went up stairs, and Mr. Woodside gave me a quantity of books and papers to carry down stairs, which I delivered to Mr. Dawson, and told him that I was of opinion that the building was set on fire, and that I had found a chunk in the recess of the door of Mr. Ferrall's room. On my return up stairs I met Mr. Wolcott, and said for God's sake, Mr. Wolcott, give some directions; he told me he would introduce me to Mr. Dexter, who would give me the proper directions, which he did. Shortly afterwards, an alarm of fire took place in the cellar, and I got water carried down and put it out in a short time. On examination, it was found that the fire had found its way between

the floor and the counter-ceiling, and it was proposed to tear up the floor, which was done, by Mr. Dexter's orders; and further this deponent saith not.

WILLIAM O'NEALE.

On being asked, the deponent saith that the floor was burnt through about the place where he found the piece of wood which he has before mentioned.

The above deposition was given by William O'Neale, before the committee; he being first sworn, this 25th February, 1801.

JOHN NICHOLAS, *Chairman.*

Thomas Y. Sprogel, being first sworn, deposeeth and saith, that, after the fire in the Treasury Department, he was employed by Mr. Nourse, the Register, to watch in the office: and that about twelve o'clock at night, he discovered a wooden block behind Mr. Harrison's fire-place, in Mr. Ferrall's room, to which the wash-board had been nailed, to be on fire; that he extinguished the fire with water, and that it appeared to him to be burning from Mr. Ferrall's room, and towards Mr. Harrison's fire-place; that the block appeared to be about half consumed; that soon after he understood, from the conversation of persons present, that they had taken out the block and found the end next Mr. Harrison's fire-place untouched by fire, but did not see the block himself; that the fire in Mr. Ferrall's room appeared to have been perfectly secured, and that he is very well satisfied that the fire did not proceed from that fire-place.

THOMAS Y. SPROGEL.

Sworn to before me, this 27th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

I, Jonathan Freeman, testify, that I was at the Treasury Department about sunrise on the day after the fire happened at that place. In the room which was the most damaged I observed the strongest marks of fire, on the side of the room opposite to the fire-place, in the wall on this side, directly (as it appeared to me) opposite to the fire-place in the Auditor's room, near the floor, were two holes in the wall, in which had been placed wood for fastening; in the largest and lowest of those holes were some coals, and ashes, and such marks of fire as induced me to suppose that the wood had been consumed there; and the strongest marks of the fire were at the end of the hole next to the opposite room; from which I was led to believe that the fire was communicated from the fire-place in the Auditor's room, by means of a block or wooden brick, which appeared to have been in the lowest of the above-mentioned holes, and to which the wash-board or surbase of the room where the fire broke out had been fastened.

JONATHAN FREEMAN.

Sworn to before me, this 28th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

Fires in the War and Treasury Departments.

Lawson Pearson, being first sworn, deposeth and saith, that he came to the Treasury Department when the fire was at its height; that after assisting an acquaintance in emptying a room, which was in danger, of the things in it, he went up stairs, and turned into the passage running to the east, and he discovered a light through the key-hole of the door of the first room on the left hand; that, supposing the room was on fire, he forced the door open, and discovered three men with a number of papers before them; that the candle was extinguished either by the sudden opening of the door or some other cause; that, on his proposing to remove the furniture, he was advised by one of the persons to throw it out of the window, which he refused, as being likely to destroy it; that the persons in the room discovered no embarrassment on its being opened. He further saith that he laid the bricks in the east end of the Treasury Department, and that after the fire he examined the wall between the Auditor's room and the room which was on fire, and could find no reason to suppose that the fire had been communicated from the Auditor's fire-place; that there was the length of the brick between the fire-place and the wooden bricks in the opposite room, and that there was no appearance whatever on the brick or mortar of the wooden brick to which the wash-board was nailed having been burnt; that the wooden brick last mentioned had been removed when he examined, which was the day after the fire. He further saith that he assisted in the examination which has taken place of the fire-places in the Treasury Department, and that a number of blocks have been taken out which were touched by fire, but that none of them were as far from the fire-places as those behind the fire-place in the Auditor's room, and that none which were touched by fire, which he has seen taken out, were more than four inches from the fire.

LAWSON PEARSON.

Sworn to before me, this 25th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

Salem Roe, being first sworn, deposeth and saith, that he was in company with Lawson Pearson when he forced open the door mentioned in his deposition, and that he saw two or three persons sitting in the room; that they proposed to remove a case of papers, and were told they should not, unless they would throw it out of the window; that they, notwithstanding, took it up and carried it down stairs.

SALEM ROE.

Sworn to before me, this 25th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

C.

Having been in Georgetown at the time the fire was discovered in the Treasury Department, I did not arrive there until it had made some pro-

gress; my immediate concern was to see after the papers, as from the appearance of the flame I thought it impossible the building could be saved. On my going to the west end of the department, where the greatest number of boxes and cases of papers were placed, a carman came up and inquired for Captain Coyle, who, he said, had desired him to convey away a parcel of papers; not knowing what authority Coyle had to issue any directions concerning the removal of papers, my curiosity was excited to such a degree as to keep me on the spot where the records were; in a short time after Oliver Wolcott made his appearance, in company with Coyle, and began to load the cart which was there with chests of papers; being surprised at this conduct, and in order to aid any evidence which should in future be called for, I looked for and imparted my information to Mr. Kramer, who immediately repaired with me to the place, and expressed his astonishment at seeing Oliver Wolcott so extremely attentive to the carrying away of papers, when the department appeared in imminent danger of being destroyed.

THOMAS WATERMAN.

Sworn to before me, this 23d day of February, 1801.

JOHN NICHOLAS, *Chairman.*

The night on which the fire was discovered at the Treasury Department I was in Georgetown, in company with several friends, when a person came to the door of the house in which we were, and gave the alarm; on which we proceeded to the Treasury Department, and I joined the ranks to hand water. The night being somewhat cold I left said station, and went into the house to assist in getting out and securing the papers; when Mr. Waterman informed me that some persons were busy in taking from the department a number of cases, &c., with papers. I went with him to the place and saw two carts, one of which had a number of cases loaded up, and Mr. Wolcott, and Captain Coyle, a clerk to the Secretary of the Treasury, appeared to be busy in assisting to load one of the carts.

HENRY KRAMER.

Sworn to before me, this 23d day of February, 1801.

JOHN NICHOLAS, *Chairman.*

John Coyle, of the City of Washington, being duly sworn on the Holy Evangelists of Almighty God, doth depose and say, that on or about the 20th day of January, 1801, at about half past five o'clock, P. M., when the alarm was given that the Treasury Office was on fire; in going towards said office he overtook Oliver Wolcott, Esq., late Secretary of the Treasury, who observed to this deponent, that he was very much interested in saving his private papers, as the justification of all his official transactions depended on that circumstance, and requested his assistance to effect that purpose, if possible; that he went with Mr. Wolcott into the northwest room of the building,

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where Mr. W. pointed out a chest of about four feet by one foot six inches; a trunk of about three feet four inches by one foot six inches; two boxes of about two feet by thirteen inches, and a small writing desk, already packed and locked, as those containing his private papers: these this deponent assisted in removing out of the house. Mr. Wolcott also requested the removal of an iron chest, as he said it contained valuable public property and documents. He also requested me particularly to assist in removing Mr. Miller's books and papers generally, as they were very important; which I did, and observed Mr. Wolcott active in assisting, and appeared very anxious for their preservation.

He then observed that it was his intention to have his papers removed to his lodgings in the course of two or three days if the fire had not happened, and as they were then exposed, he wished to have them taken there.

This deponent then went to the sign of the Black Horse, where he knew carts were to be hired, and engaged one. As it did not arrive soon, he went to the front of the house and observed an empty cart, employed the owner, and brought him to where the trunks, &c., were. Mr. Wolcott then went into the house and cellar to observe the state of the fire, returned, and reported that the danger was apparently over.

Mr. O'Neale then came up and requested Mr. Wolcott's orders respecting the removal of papers. Mr. W. replied he would give no orders, but would introduce him to the Secretary of the Treasury, who was the proper person; this was done, and the orders given. Mr. O'Neale then demanded his assistance as Secretary of the Treasury. Mr. W. replied, I am not Secretary of the Treasury. Mr. O'Neale then said, you are a citizen, and I demand your assistance to save the public property. Mr. W. replied, I cannot; I must take care of my private property.

This deponent and Mr. Wolcott had previously examined the state of the fire, and concurred in opinion that the danger was all over; the fire appeared completely subdued, and any further removal we conceived to be superfluous. We then had loaded into a cart the before-mentioned chest, &c., with the addition of an iron box, which Mr. Wolcott said contained valuable public documents, and did it as a measure of safety.

The cart then drove to the house of said deponent and unloaded. The iron box was returned in safety to the Treasury Department in the course of a day or two following.

JOHN COYLE.

Sworn to before me, this 25th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

Bazil Wood, of the City of Washington, doth, upon the Holy Evangelists of Almighty God, depose and say, that on the 20th of January last, and in the evening of the same day, during the fire which commenced in the evening aforesaid in the Auditor's office of the Treasury Depart-

ment, he, this deponent, saw several chests and boxes containing books and papers belonging to Oliver Wolcott, Esq., late Secretary of the Treasury; that this deponent did not then, nor has he since seen the papers then contained in the said boxes; but for some time previous to Mr. Wolcott's resignation, he did prepare, and cause to be prepared, copies of various public documents and records in his office; that this deponent did several times assist the said Mr. Wolcott in removing these papers into Mr. Miller's room, which Mr. W. occupied for a few weeks, and from which the before-mentioned chests, &c., were, as before said, removed on the evening of the fire; that he verily believes there was not a single original document removed, or a paper which was not recorded taken away from the office by Mr. W. This deponent asserts that the space which the papers intended to be taken away by Mr. W. could not be less than four feet square at least, and the person (to wit, Robert Jones Heath, one of the clerks, who examined the rough draughts of letters and other documents, being sick,) this deponent can only further say, that he believes the said Heath could give particular information as to the papers, &c., which he examined and delivered to Mr. Wolcott. Mr. Wolcott received from this deponent no papers, or copies of books or papers, other than the weekly state of balances, of which the records are now in this deponent's possession. The kinds of papers which Mr. Wolcott intended, or said he intended to take were, the rough draughts of his own public letters and the copies of several reports to the various departments, printed journals of Congress, printed reports of the different departments to the President and Congress, copies of weekly statement of balances, the annual statements of receipts and expenditures of the United States: and further this deponent saith not.

Sworn to before me, this 27th day of February, 1801.

JOHN NICHOLAS, *Chairman.*

OFFICIAL CONDUCT OF GOV. SARGENT.

[Communicated to the House of Reps., Feb. 19, 1801.]

MR. CHAUNCEY GOODRICH, from the committee appointed to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory; and to whom also was referred the petition of Cato West and others, made the following report:

In the above-mentioned petition, the administration of Governor Sargent is criminated on the ground of improper and arbitrary misbehaviour; of an unconstitutional exercise of the legislative authority by the Governor and Judges, and of unlawful exactions of office fees.

First. Of improper and arbitrary misbehaviour.

As the particular instances and acts of improper and arbitrary misconduct imputed to Governor Sargent are not specified, nor evidence adduced whereby to verify the general charges alleged

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against him, your committee have not been able to investigate them. Such papers relative thereto as have come to their possession accompany this report.

Second. Of an unconstitutional exercise of legislative authority by the Governor and Judges.

On this point it is alleged that the Governor and Judges have made and published laws not derived from the codes of the original States.

By Governor Sargent this fact is admitted.

The President of the United States, by the act entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," was empowered to establish there a Government, in all respects similar to that exercised in the Territory Northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late Congress, on the 13th of July, 1787.

In the ordinance referred to in the aforesaid act, are the following clauses:

"The Governor and Judges, or a majority of them, shall *adopt* and *publish* in the district, such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time: which laws shall be in force in the district until the organization of the General Assembly, unless disapproved by Congress; but afterwards, the Legislature shall have authority to alter them as they shall think fit. The Governor for the time being shall be commander-in-chief of the militia; appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress. Previous to the organization of the General Assembly, the Governor shall appoint such magistrates and other civil officers in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of the temporary Government, be appointed by the Governor. For the prevention of crimes and injuries, the laws to be *adopted* or *made* shall have force in all parts of the district; and for the execution of process, criminal and civil, the Governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships; subject, however, to such alterations as may thereafter be made by the Legislature."

Your committee are of opinion that the legislative power of the Governor and Judges, by virtue of the above mentioned ordinance, is restricted to the *adopting of laws from the codes of the original States*, and cannot be extended to the *making or enacting of laws not derived from those codes*.

It appears to your committee, that the Governor

and Judges of the Mississippi Territory misconceived the nature and extent of their authority in this particular. Justly to appreciate their motives, it is essential to state the principles on which they have acted. By them, the ordinance appears to have been understood as vesting in the Governor and Judges a plenary legislative authority. Governor Sargent justifies its exercise on the ground of construction, and of the principle being avowed and acted on by the Governor and Judges, in *making laws* in the Northwestern Territory; and its being impliedly if not directly sanctioned by Congress. In his letter of the 15th of June, 1800, to the Secretary of State, he observes, "upon the subject of *making or adopting laws*, I have written you largely heretofore. It is not necessary to repeat my own opinions; many letters in your office evince my anxiety to have possessed the codes of the original States. We began by legislating, however, with the laws of the Northwestern Territory; they had been long subject to the disapprobation of the honorable Congress; and daring not to doubt their intention, we believe them good. We have uniformly continued, however, to declare our willingness to receive and respect authenticated information for the quiet and interests of this people." In another letter, of the 25th of August, 1800, to the Secretary of State, (already communicated to the House) he observes, "the honorable Mr. Davis seems to have been at much trouble to establish what the Governor and Judges are very willing to admit, 'that they have made laws.' As Secretary of the Northwestern Territory, and vested with the powers of the Governor, I fully concurred with the Judges that we were a complete legislative body. We never hesitated to manifest this to Congress; and the laws by Governor St. Clair, the Judges Parsons, Symmes and Varnum, enacted as early as 1788, demonstrated that such also was their opinion. I solemnly deny to have acknowledged (as Mr. Davis asserts I have) a deviation from the ordinance of Congress in the thus enacting of laws; for the ordinance, in my acceptance thereof, tolerates so doing; in strong presumptive proof of which, I shall offer, as the honorable Mr. Davis and myself seem to have so differently read the same, that the laws which were regularly transmitted to the General Government, in one solitary instance only were disapproved; thus evidencing their perfect coincidence in sentiment with us upon this very important subject. As a further proof of their will and pleasure that we should 'make laws,' they have enacted, nearly in the words following, 'that the laws of the Territory that have been, or hereafter may be enacted by the Governor and Judges; &c.; and again, that the Governor and Judges shall be authorized to repeal their laws by them made, whenever the same may be found to be improper.'"

With respect to the practice which Governor Sargent alleges obtained with the Governor and Judges of the Northwestern Territory on this point, your committee are informed, that at their first meeting in 1788, a difference of sentiment arose between the Governor and Judges on this subject;

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they asserting and he denying, the power of the Legislature to make laws not derived from the codes of the States. After protesting against the assumption of that power, the Governor yielded to the opinion of the Judges. The subject was again resumed in 1795, when the Governor published his correspondence with the Judges, showing his disapprobation of the principle of making laws; on their part, the then Judges also published the reasons and grounds of their opinion and conduct in making laws. The Governor again yielded to that opinion, and from time to time, till the second grade of Government was established, the Legislature enacted laws not derived from the codes of the States.

The laws of that Territory being voluminous, a complete set whereof is to be had for examination only, in the office of the Secretary of State, your committee have not been able, from their own inspection, to ascertain how far the practice of making laws obtained, or how constantly it was adhered to in successive periods, as the judges have succeeded to each other. They find that several of the laws passed before the year 1795 were not taken from the statutes of either of the States. Mr. Wagner, clerk in the office of the Secretary of State, who, at the request of the committee, has examined the laws of the Territory in reference to this point, certifies, "that he has examined the laws of the Northwestern Territory from the commencement of its legislation, to the 1st of August, 1792, but it does not appear, from the face of them, which, or what parts of them have been adopted from the codes of the original States, or have been originally made by the Legislature of that Territory." How far, therefore, they have been mere adoptions from those codes, can only be established by comparison. That is not the case with respect to the printed laws of the Territory, published since May, 1795, in which they are invariably stated in their titles to be adopted laws, except in the instance of repealing laws; to pass which, the Governor and Judges were expressly authorized by the act of Congress of the 8th of May, 1792, and except a law in addition to a law, entitled a law ascertaining the fees of the several officers and persons therein named, published at Cincinnati on the first of May, 1798, by Winthrop Sargent, acting as Governor, and John Cleves Symmes, Joseph Gilman, and Return J. Meigs, Judges, which is not stated to have been adopted. Your committee further find, that on the 21st day of January, 1794, the President of the United States laid before the two Houses of Congress a copy of such laws of the Territory of the United States Northwest of the river Ohio, as had been passed from July to December, 1792, inclusive; that on the 21st day of April, 1794, they were, by order of the House of Representatives, referred to a special committee, who, on the 24th day of May, 1794, among other things, reported, that, on examination of the said laws, they found many of the provisions contained in them objectionable, but that they conceived it would be immaterial for them to detail the particular objections, as one applying to the whole of said laws afforded, in their opinion, sufficient reason for disapproving

them. That those laws appeared to have been passed by the Secretary and Judges, on the idea, that they were possessed generally of legislative power, and have not, in whole or in part, been adopted from laws of the original States; that on the 12th of February, 1795, an engrossed resolution, in the form of a concurrent resolution of the two Houses, disapproving all those laws except one, was agreed to by the House of Representatives and sent to the Senate. In the Senate, on report of a special committee, the resolution was disagreed to. The consideration of those particular laws does not appear to have been resumed.

In a letter of Governor Sargent's to the Secretary of State, dated Mississippi Territory, January 15, 1799, he writes: "the Judge's arrival enables us to legislate: it was most essential, and we will set about it without delay, though with much regret on my part at the want of the laws of the several States, as we must be compelled to form our code from the volumes of the Northwestern Territory, which I by no means can be induced to believe a very good basis."

And in another letter of the 13th of March, 1799, he writes to the Secretary of State: "I have already advised you of the arrival of Judge Tilton, and, in consequence, we are at length legislating; but destitute of the laws of the several States, we necessarily *make* instead of adopting them; the right to do which has heretofore been a question. Very diffident of my own law knowledge, I feel extremely anxious for the presence of Judge McGuire, who, I am taught to believe, is a great professional character."

Third. Of unlawful exactions of fees for official acts.

The fees alluded to are for passports to persons travelling from the Mississippi Territory to other parts of the United States, through the Indian country, and on marriage and tavern licenses.

Governor Sargent acknowledges his having received fees of the above description. He justifies the practice on the principle of those acts being extra from the duties of the Governor's office, and also of precedent in the Northwestern Territory, known, as he presumes, for a long time, to the General Government.

A law of the Mississippi Territory, entitled a law to regulate taverns and retailers of liquors, and concerning Indians, allows to the Governor a fee of eight dollars on a tavern license, which, with a like fee on marriage licenses, Governor Sargent has received. The amount of the fee on passports is unknown to the committee.

By a law of that Territory, fees are allowed to the Judges, on certain processes and official acts.

It is understood, that, for a course of years, the Governor of the Northwestern Territory has been in the practice of receiving four dollars on marriage licenses, and one guinea on tavern licenses. Laws have also been there passed, allowing to the judges fees on processes and official acts and compensation for travelling expenses; one of which was among the laws disapproved by the before mentioned resolution of the House of Representatives, which was disagreed to by the Senate; the other

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purports, on the face thereof, to have been adopted from the New York and Pennsylvania codes. Both of those laws were passed by Governor Sargent, when Secretary, and acting as Governor of the Territory.

The act of Congress, authorizing the establishment of a Government in the Mississippi Territory, provides that the officers therein shall receive the same compensation for their services, to be paid in the same manner, as is by law established for similar officers in the Territory Northwest of the river Ohio, and the powers, duties, and emoluments of a Superintendent of Indian Affairs for the southern department to be united with those of Governor.

To the Governor of the Northwestern Territory, for discharging the duties of that office and those of Superintendent of Indian Affairs, is allowed an annual salary of two thousand dollars, and to each of the Judges eight hundred dollars.

As the Governor and Judges of the Territorial Governments are officers of the United States, with annual salaries fixed by the laws of Congress, their exacting and receiving fees, as before stated, cannot be otherwise considered than as an abuse which ought to be corrected.

Although the committee find cause to notice as irregularities, in Governor Sargent's administration, the making laws not derived from the codes of the original States, and also his receiving fees for certain official acts, yet it appears satisfactory to them, from the circumstances under which they took place, that those irregularities originated from incorrect and misconceived opinions respecting the extent of his powers, and not from impure or criminal intentions.

They therefore respectfully submit to the consideration of the House the following resolution:

Resolved, That there does not appear cause for further proceedings on the matters of complaint for mal-administration against Winthrop Sargent, as Governor of the Mississippi Territory.

MISSISSIPPI TERRITORY,
August 25, 1800.

SIR: In consequence of proceedings in the National House of Representatives, tending to implicate the Governor and Judges of this Territory, unofficially communicated from the Department of State, I took leave to address the then Secretary, in a long letter, bearing date the 15th June, to exculpate, defend, and justify our aspersed conduct. Since that period there has come to my view, through the medium of the public prints, a resolution of the House of Representatives, for disapproving so much of two of our laws as authorizes certain fees to myself and their honors; with notice that the consideration thereof had been postponed by the wisdom and justice of the honorable Senate.

In a public paper styled the True American, and printed at Philadelphia upon the 15th of May, we observe an extraordinary motion, and a more extraordinary preamble, to have been made on the preceding day by the honorable Mr. T. T. Davis,

and such as the most rigid justice should not have dictated, but upon fullest proof of foulest deeds. To the distinguished sympathies and candor of Messrs. Harper, Craik, Nott, and Griswold, we stand indebted for reminding gentlemen that "the accused had no opportunity of answering to the very serious charges contained in the honorable Mr. Davis's preamble; that, if the censure was just, impeachment ought to be obtained by other means," more equitable, more ingenuous, and less dishonorable, they might well have added; and for impeachment, conscious we have discharged our duties according to honor and to conscience, we stand prepared; persuaded always that the tenure of public commissions, under the American Government, rests not upon their forfeiture.

Whether we may be indulged with the privilege of being heard is yet a question. Upon most of the allegations so odiously blazoned in the preamble of the honorable Mr. Davis, I have, I fondly trust, so fully expressed myself as at least to suspend sentence of public condemnation; and, ere another session of Congress, gentlemen who may seek truth, shall find fullest conviction that we have been most barbarously abused and vilified; for my own part, I have already thrown the gauntlet, and defy the most insidious as well as active malice to establish—

That I have "acted under the influence of a faction, or pursued the principles of despotism, in excluding from my confidence a majority of the well disposed citizens."

Or that I have "indulged an unwarrantable distrust of the great body of this people, and appointed over them, to offices civil and military, persons obnoxious for their intrigues and foreign influence." I deny that I have "practised avarice, extortion, or any oppressive measure," as has been ascribed to me by the honorable Mr. Davis.

Fees warranted by a law predicated upon long-continued practice of the Northwestern Territory, and which had received the approbation of Congress, we have sometimes demanded, with this very essential difference, however, and as is in some measure stated in my last letter: that there the Governor and Judges have actually exacted fees for services expressly required by the ordinance under which they were appointed; whilst in this Territory (as it respects myself, this is most confidently asserted) they have been received for such only as seemed extra.

Judges in the Northwestern Territory are allowed by law a reimbursement of all expenses of themselves and servants in going the circuits to hold the courts. They have also fees for allowing writs of error, supersedeas, for taking bail, filing bail pieces, and all the et ceteras for which the honorable Mr. Davis has so zealously assayed to attach odium to the judicial character within this Government. The honorable Congress could not have been uninformed thereof, for the laws and records in point had been officially transmitted by myself, as secretary, consequently, long ere the practice of exacting fees could have been adopted into the United States' Mississippi Territory,

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granting then, sir, for a moment, the exacting of fees to be wrong, should not manly candor have dictated that the example of an older colony, so long and so strongly sanctioned by the very highest authority we under God can know, might in justice have been accepted as an apology, and we humanely spared the cruel mortification of suffering the hard, the intemperate language with which we have been assailed in the face of Congress, our friends, and the world?

The privilege of gentlemen tolerating full freedom of speech does not warrant indecorum, nor can any power, I humbly conceive, command my tacit acknowledgment of the "avarice and extortion" ascribed to me by the honorable Kentucky member. Though constrained always to rigid economy by the hard service of my country, I acknowledge not to have practised "avarice and extortion."

A soldier of the Revolutionary war, I retired not from the field till the close thereof; and it may be remembered by some of the veteran comrades in those days of peril, and who have witnessed the whelming calumny so unjustifiably attached to my humble name, that bread and fame were our sole reward.

In civil life, of the ten years that the Government of the Northwestern Territory had been established, ere I was commanded to this country, the arduous and complicated duties of Governor and Secretary, with the accumulated expenses of both offices, were mine to discharge, and without further public provision than the small stipend allowed the Secretary.

By statements made to the honorable Congress in 1796, for a compensation which is yet withheld, it will appear that my expenses were necessarily very considerable, the salary small, and that there were none of the operating motives for an avaricious man to have continued in office; that reputation, a good name, must have been the grand desideratum. Offices in your Western country were long acknowledgedly the posts of danger; hence, perhaps, their tenure undisturbed: but gentlemen read in the history of the sufferings and peril of those days, a just and a grateful country cannot hastily prostrate servants grown gray in hardihood and toil.

The honorable Mr. Davis seems to have been at much trouble to establish what the Governor and Judges are very willing to admit, "that they have made laws." As Secretary to the Northwestern Territory, and vested with the powers of the Governor, I fully concurred with the Judges that we were a complete legislative body. We never hesitated to manifest this to Congress, and the laws by Governor St. Clair, the Judges Parsons, Symmes, and Varnum, enacted as early as 1788, demonstrated that such was their opinion also; but I solemnly deny to have acknowledged (as Mr. Davis asserts I have) a deviation from the ordinance of Congress, in the thus enacting of laws; for the ordinance, in my acceptance thereof, tolerates so doing: in strong presumptive proof of which I shall offer, (as the honorable Mr. Davis and myself seem to have so differently read the same,) that

the laws which were regularly transmitted to the General Government, in one solitary instance only, were never disapproved; thus evidencing their perfect coincidence in sentiment with us upon this very important subject. As a further proof of their will and pleasure that we should "make laws," they have enacted nearly in the words following:

"That the laws of the Territory that have been or hereafter may be enacted by the Governor and Judges," &c., and again, "that the Governor and Judges shall be authorized to repeal their laws by them made, whenever the same may be found to be improper."

Whence we certainly may take leave to infer our most incontestable right to the so very essential and salutary measure of enacting as well as adopting laws for common good; and further, that we shall stand exonerated, in the minds of the virtuous and the wise, from even the intention of exercising that "most dangerous assumption of power," so unadvisedly ascribed to us by the honorable Kentucky member.

Amongst the rolls in the office of the Territorial Secretary, we are ingenuously to acknowledge a law for the punishment of arson, that seems to have escaped the watchful eye of the honorable Mr. Davis, and which, together with the statute against treason, are, in our view, alike exceptionable. No legal decision or proceedings, however, have been had thereupon; nor will the Judges, I persuade myself, ever designedly transgress the sacred rules of our more respected Constitution. But so much has already been said upon this unpleasant theme, without anticipating opprobrious misconceptions of our intentions, and which appears in my address to the Legislature of the 5th of May, in your office, that no more explanation or comment can be now necessary. In any formal investigation, I hope to demonstrate that the original of the laws (our great anxiety to disseminate hastily sent to the printer) was unexceptionable in matter; but that we have been inadvertent in our signatures to the rolls cannot be denied; an act acknowledgedly hostile to the Constitution, though we have the consolation to believe it has operated no evil. For my own part, however, I claim no indulgence in official transactions, and will await, in respectful submission, such censure as may be deemed proportionate to the magnitude of my transgression; but, when it shall be mercifully considered that the law for the punishment of arson in the Northwestern Territory, subject to the same Constitutional objections with any of the statutes of this Government, had been ten years before Congress at the time we adopted it, (and never disapproved,) it must be received as an extenuation of our crime.

There has been transmitted to the Department of State the copy of an appeal to the justices of Adams county, made immediately upon my receiving the reports of the committee of Congress, to whom had been referred the petition of Cato West, and certain letters of Narsworthy Hunter. The only matter therein which I then deemed of consequence enough to engage my special attention, and publicly demonstrate to be false, was Mr. Hunter's so positive declaration of my usurping

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the powers of the court, (their duty to hold sacred,) and with most nefarious and dishonorable intention.

My appeal is annexed to the letter of the 15th of June, before mentioned, but it was not until the 4th instant that the justices were in session, which necessarily delayed their response herewith transmitted, and which I respectfully solicit may accompany the petitions of Cato West and others, "as the natural and legitimate relatives of those documents," which the honorable Mr. Davis has proposed to lay before the President.

Under any other circumstances than a base impeachment of almost all the territorial officers, I could not myself announce to Congress that the "accredited agent" of those persons, "styling themselves a committee regularly chosen by the inhabitants of the Mississippi Territory," &c., stands convicted, to every man of mind, of malice, mischief, and falsehood; and, if words have meaning, that he is recorded in the honorable court of general quarter sessions of the peace of Adams county, in their August term, to the present people and posterity, as a most infamous liar.

The character of the members of this court generally is, I believe, less exceptionable than that of any other equal number of men within the Government; but they are sufficiently known to reject or confirm my estimation by the most abundant testimony.

The presiding justice is respectable for integrity, science, and wealth; with very conciliating manners, and an independence of sentiment most happily adapted to his public station. I shall take leave to enclose unto you his charge to the grand jury, in this same August term, adding my request that it may be brought to the view of Government to illustrate the reputation of accusers and accused, and for other purposes important to this Territory, whenever proceedings shall be continued under the petition of Mr. West and committee. The name of Mr. Hugh Davis in the list of magistrates will also be found in the Mississippi committee; this, and the character which I have drawn of the former, may seem incompatible. The motives for my own appointments I can explain, but not always the conduct of officers.

This Mr. Davis is the same gentleman I have quoted in my address of the 15th of June, as the "well-meaning member of the committee, obtaining a copy of a letter of the 20th of December, 1798, to the Secretary of State," and which he believed to have been by them most basely perverted. He has since communicated to me that the representations made in that letter of the sufferings of the inhabitants from the Indians under Spanish and American government, then complained of by almost every man of my knowledge, and late presented as a grievance by the grand inquest, would have been stated to the General Government at that time as a wicked and abominable falsehood of the Governor; and that neither injury nor inconvenience from the Indians had ever been experienced by this people, but for his special opposition to the measure, made under the fullest impression of the justice and propriety of

my statements, and which the committee had been constrained reluctantly to acknowledge. Facts, produced to them by Mr. Davis, had been too strong, and of too much publicity, to have escaped the notice of many of the members, and must induce a powerful presumption of more than want of candor upon the occasion.

The clerk, sheriff, and one of the justices, have transmitted to me some documents relative to the alarming depopulation said by Mr. Hunter to have taken place under Doctor White; the site of public buildings, "so marked by opposition to general opinion," and other matter, all which I take leave to submit as proper to be brought forward in future attention to the motion and preamble of the honorable Kentucky member.

My respected friend Colonel Clarke, deceased, whose eulogium and worth have been so long established, and whose situation as commanding the militia, and presiding in the courts of justice, rendered him more and better conversant in the administration of the Government than almost any other man within the Territory, sensibly impressed by the insults and injury offered to the Governor, and the country, devoted the last moments of a life, passed in honor, to the bearing strong testimony against that obloquy and odium which had been produced by the unprincipled clamors of malevolence.

Mr. D. Clark, a citizen of the Territory, nephew to the colonel, and inheriting his valuable possessions in this country, a gentleman long known and respected for his spirited and successful exertions in favor of our oppressed countrymen at Orleans, has obligingly committed to me his uncle's sentiments, addressed, and intended to have been directly communicated, it seems, to the honorable Mr. C. C. Claiborne, of Congress.

Testimony from characters so endowed as to command universal credibility, and so honorable to the administration of this Government, I shall certainly avail myself of. The letter, therefore, from Colonel Clark to Mr. Claiborne, and one from his nephew, (in connexion,) I respectfully solicit may be considered by the honorable Mr. Davis as true "relative documents" to the petition of Cato West, and transmitted to the President, or otherwise, as shall be deemed best for his so censorious motion and preamble.

The same reasons, sir, which induced my last long letter, have made me at this time thus immeasurably prolix, and I have again to pray your enduring patience. Once I would have deemed it an undue condescension to have brought forward voucher or collateral aid against more respectable men, than any enrolled in the list of those who are warring upon my fame; my own declaration I should have believed enough under any circumstances but formal impeachment. Wary, however, and apprehensive from late sufferings and persecution, I would guard against wiles, wickedness, and surprise.

The precedent of censure, and other uncommon proceedings upon "*ex parte*" evidence and statement, demand, on our part, more than ordinary circumspection. The attentions which have been

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bestowed upon the representations of the smallest and the least respectable part of this community, I will venture to say, has excited astonishment in the mind of almost every man within the Mississippi Territory. That Mr. West and signers of the petition to Congress were not even a moiety of the committee pretended to have been duly elected, is well known to themselves, and no secret within the Government.

The circular letter which Mr. Hunter states to Congress as originating this body, was an indecorous publication, dated upon the 6th of July, 1799, requesting meetings of the inhabitants in the several districts to elect members for a general convention. This letter, to use the language of respectable characters amongst us, was evidently intended to have been communicated to those only who had been loud in disaffection to the Government; "not general, but to be whispered to a few individuals only."

If the whole people of the Mississippi Territory could have been assembled, or a due proportion of character only, the late proceeding of Cato West, and others, would probably have been discountenanced in all its parts. This is not mere matter of opinion; for, in the January of 1799, the same was demonstrated by analogy. In a committee, who then petitioned Congress upon the subject of these lands, were some of the leading characters of Mr. West's party assembled, with the same views which they they have of late accomplished; but the members who generally had been elected upon fair and honest principles, that is, after due and diffused notice, whose names are with Congress, and who probably were a representation of the majority, curbed, with strong hand, the spirit of faction and intrigue.

Fourteen days only elapsed, from the notice contained in the letter before mentioned, to the time appointed for holding the election; a short period, indeed, considering the extent of our country, and the dispersed state of its inhabitants. Many respectable persons, indeed whole settlements, Tensaw and Tombigbee (now Washington county) not included, were without notice upon this important occasion; nor can I learn that in any one of the districts there was an assembly sufficient for much less interesting purposes than constituting delegates to a general convention.

In the town of Natchez, which comprehends an important part of a respectable population, forty persons only assembled; a moiety of them are represented destitute of all visible property; people of any country, but never acknowledged to have been enrolled within this Territory. They chose two delegates; in the certificate of the election, however, the qualifications of the electors are candidly stated to have been problematical. One of the delegates, it is said, never attended the committee, and that the other, after in vain combating the violence of its proceedings, withdrew himself altogether. This is certain, that neither of their names are found affixed to the representations which have been published from this committee. By unquestionable authority, I am in-

formed that the principal inhabitants of the settlement of Big Black and Bayou Pierre, in the upper county, were without notice of the district meetings; and that out of one hundred and forty free male inhabitants, who should have voted for delegates to this committee, twenty-one attended; that their most weak and most abandoned characters were elected, amongst whom was one Robert Ashley, said to have fled from the justice of some of the Southern States, and who has been indicted within the Mississippi Territory for horse stealing.

All this, and much more anecdote, as well as public history of, and in relation to, Mr. West's committee, was known to the respectable citizens of the Mississippi Territory; and the natural inference, "so just, so wise and so wary a body as Congress, will not act upon such irregular, such partial proceeding," was the general sentiment, the general expression of the most worthy characters amongst us. Experience, however, has shown us, that conclusions, founded upon the intelligence of man, are too often fallacious. Abstract of all consideration merely personal, I must, sir, continue to view it as a very great misfortune that one party only should have been heard upon decisions so momentous to us all.

Information might have been had from sources disinterested, impartial, and of confidence; less intrusion and importunity upon the important time of Congress, (for the past, present, and to come,) with more tranquillity to this restive country, would probably have been the happy consequence.

General Wilkinson, it is believed, was in Philadelphia in time to have met inquiry; as an officer of rank and confidence, he was worthy to have been consulted; he had spoken and written honorably of the administration of this Government within my knowledge; he is conversant with men whom the people should have respected, and few of whose names are enrolled amongst our accusers. His testimony must have been favorable to the Mississippi Territorial officers.

He could have informed Congress that we are unprepared for any accumulation of expense; that the statement of Mr. Hunter, of the wealth and numbers in this Government, is exaggerated; that we were so involved in debt as to have rendered interposition of the Spanish Government, between us and bankruptcy, absolutely indispensable; and that in Pickering county, where discontent with the present administration had originated, there were not enough of informed men to fill the present necessary offices of Government. It is my duty, however, to endeavor to conciliate all this people to the change which has been commanded, and I shall most religiously perform it.

With the sensibilities of a man wounded in his better, his immortal part—reputation, I have, sir, written much, but I feel much more.

Assailed violently by a party in this country, from motives probably most impure, and in manner and language which, I persuade myself, no gentleman shall ever cease to abhor, some unbecoming wrath of expression, some undue consideration of self may have escaped me; but that no-

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indecorum to characters in that honorable House, so much my duty to respect, may be found on those, or any of my future pages, is the object of my most devout prayers.

The honorable Mr. T. T. Davis, of Kentucky, seems to the Governor and Judges of the Mississippi Territory to have been unnecessarily severe. Towards the former he has practised most wanton and unwarrantable cruelty. He has given publicity to one of his letters seemingly intended only for his constituents, but which has circulated in the Northwestern Territory, where my very interesting concerns, where almost all my pecuniary affairs are afloat, calculated evidently to impress the people with such sentiments as may do me irreparable injury. He has added insult to injury, by addressing to me directly a copy of this letter, from which the following is a verbatim excerpt:

"A bill to authorize the Mississippi Territory to elect a Legislature of their own, and to take from their Governor the power of dissolving and proroguing them at pleasure, has passed the House of Representatives. The numbers in this Territory did not, according to the ordinance, entitle them to a Legislature, but to curb the usurpation of their Governor, to wit, Winthrop Sargent, Secretary to the Governor of the Northwestern Territory, Congress are inclined to grant them this extraordinary privilege; and much I fear this will not be sufficient to protect the people from the insolence of this Federal Governor, as he still retains the power of putting his veto on all their legislative acts."

I will conclude this long epistle, sir, in the words of a very celebrated poet—

"Durum! Sed levius fit patientiâ,
Quicquid corrigere est nefas."

and subscribe myself, with every sentiment of most respectful consideration,

Your obedient, and Government's faithful and zealous servant,

WINTHROP SARGENT,

The Hon. SEC. OF STATE of the U. S.

The Charge delivered to the Grand Jury at the opening of the Court of Quarter Sessions for the county of Adams, on the 4th instant, by the Hon. William Dunbar, presiding Justice:

Gentlemen of the Grand Jury: The court expresses great satisfaction at meeting a Grand Jury composed of such respectable persons now assembled for the discharge of its important duties towards our country.

It is with peculiar concern that this court has to lament, in the decease of its late able and worthy presiding magistrate, a loss which at this moment will be deeply felt. Gentlemen, you will undoubtedly mingle your griefs with ours in deploring a misfortune which this country was unprepared to sustain. Of all those gentlemen who have been honored with seats upon this bench, the late Colonel Clark was perhaps the only person who possessed, from the experience of his earlier years, treasured up in a mind replete with na-

tive energy, a sufficient fund of knowledge to enable him to preside over this court with conscious dignity. Long will the community have cause to lament the departure of this able magistrate, whose every moment, while he resided in this place, was dedicated not merely to the discharge of his official duty, but the ardor of his mind was perpetually occupied in seeking occasions to correct vice and repress immorality, whether of a public or private nature, and with a truly paternal care sedulously watching over the peace and happiness of this vicinity. The human mind is so constituted that, in order to discover the true value of an object, it would seem that it must first be lost; the public, therefore, will now begin to appreciate more justly the worth of this estimable character.

It has been said, with truth, that his brother associates relied on his perseverance, and would sensibly feel his loss; but, above all, this loss is most sensibly and severely felt by myself, who am now called upon, with inferior talents and very limited experience, to fulfil the important duties of his station in this court. If, in the infancy of our courts, this able magistrate thought it necessary to solicit the candor of his fellow-citizens, certainly I, whose whose education and pursuits of life have been altogether foreign to the modes of this court, have more abundant reason to entreat the indulgence of a generous public. The court is persuaded that if any deviation from technical rule should appear in the procedure of this court, it will be ascribed by our country to its true cause, and not to any deficiency in the virtuous wishes of its members to discharge with fidelity its duties in the public service.

Gentlemen, an important change has taken place in the form of our Government since the last meeting of this court. Congress, with great wisdom, considers all new colonies as in a state of infancy; and, as they are insufficient for their own protection, so also they are supposed to be unqualified for their own government. Protection and obedience must always go hand in hand. Congress, therefore, sends forth her chosen and approved servants with ample powers to guide the inexperience of her younger sons, who are not permitted to have a voice in their own Government, for the same reason that the infant is not permitted to oppose the will of the parent. The peculiarity of our situation, and our great distance from the seat of the General Government, have, no doubt, induced the honorable Congress to relax from the general rule established for the government of Territories; for it is to be recollected that the settlers of a British province, older than the Revolution, form the basis of the population of this Territory. It is true that accessions have been made to it by native Americans who have removed themselves during the war of the Revolution, and in a time of peace since the conquest by Spain; but the mass of our population not resembling any American colony, it is probable that this Territory has been considered as an ancient settlement, entitled to earlier privileges than young colonies just emigra-

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ting from the bosom of the United States. It would seem that, with a view to facilitate the obtaining the consent of Congress, it has been stated that our population cannot be less than 6,000 free inhabitants, and that our annual revenue in cotton, at one quarter dollar per pound, amounts to \$750,000. I do not know that evil consequences can result from this exaggerated statement, excepting that, in the course of possible events, we may be called upon by Congress for a contribution towards the general defence of the Union; which probably would be demanded in the ratio of the above statement of \$750,000. There are no data which have come to my knowledge, that would justify a calculation of half the above sum; and it ought, therefore, to be remembered that, at this early period, we refuse our assent to the above statement.

It may not be improper to say a few words upon the subject of another statement, in which it appears to me the honor of this court is implicated. This court has been called by the Governor of the Territory to declare whether it has been truly stated, that he, the Governor, did send to the first general court of quarter sessions of Adams county, for their sanction, an estimate of upwards of ten thousand dollars, which it is said the Governor thought necessary to be raised in that county. I answer, that no such statement was ever sent to this court by Governor Sargent. I have ever been astonished how such an absurd idea could get abroad. Those who affected to believe it, must previously have admitted the turpitude of this court; for certainly, as the law exists, it is not easy to conceive how the Governor could have hazarded issuing so extraordinary a mandate, unless he were well assured that this court was predisposed to be his obsequious and servile minions. I presume that I speak the general opinion, when I say that this court is composed of men possessing sound republican principles, and of independent fortunes, who court not the smiles, nor fear the frowns of any man, however exalted may be his rank in life. The more ample reply, with the statements requested by the Governor, will be referred to the consideration of my brother associates.

Let us hope, gentlemen, that, by the virtue of our citizens and the wisdom of our legislators, our new privileges will become a source of additional happiness and prosperity to this Territory. It is a pleasing presage of our improving manners and peaceful disposition, that the late elections for this county were conducted with so much order, harmony, and decency, greatly to the honor of both candidates and people; and I do most sincerely congratulate my country on this recent proof that party spirit is retreating from our land. It is a certain truth, that the interests of the citizens of this Territory, when properly understood, are one and the same, and ought to bind us to each other in a firm bond of union. It is grievous to all good men, when the demon of party spirit stalks over the land. It will be always found to originate with men of despicable talents, who despair, by other means, of raising themselves into popular estimation. Gentlemen, you can-

not do a more acceptable office to your country than by carrying to your respective homes a spirit of conciliation, endeavoring to extinguish this pernicious principle which harasses the peace of society, and keeps asunder families whose mutual happiness and interest it is to live in harmony and the exchange of good offices. Those who take a pleasure in broils, dissensions, and tumults, will counteract your virtuous endeavors, because their importance would be destroyed by your success; but if the worthy characters of the community could at length resolve to use their exertions, the fomentors of this malignant spirit would be compelled to hide their heads in the darkness of their evil designs.

Gentlemen, you are specially returned the grand inquest of the county, to inquire of all crimes and misdemeanors committed therein, and which are within the jurisdiction of this court to determine and sentence.

A crime or misdemeanor is defined to be "an act committed or omitted in violation of a public law, either forbidding or commanding it;" and this public law that is violated may be either the written statute or the common law of the land, which prohibits all offences of a public and evil example, and contrary to good morals. The jurisdiction of this court is limited by a statute of this Territory, and extends to all crimes and misdemeanors, of whatever nature and kind, committed within this county, the punishment whereof doth not extend to life, limb, imprisonment for more than one year, or forfeiture of goods and chattels, of lands and tenements, to the Government of the Territory. All offences punishable in less degree or in any other manner than by the punishments above enumerated, are within the jurisdiction of this court, and, therefore, proper objects of your inquiry. Offences against the penal statutes of the Territory come before this court through your presentments, such as perjury, larceny, forgery, making of fraudulent deeds, maiming or disfiguring, usurpation of office, assault and batteries, riots, routs, and unlawful assemblies, marrying persons contrary to law, offences against the statute regulating taverns and retailers of liquors and concerning Indians, also offences against the law regulating slaves, with others that might be enumerated from our penal code. Many offences against the common law might be noted as proper for your inquiry, such as challenging to fight or bearing a challenge, libels, nuisances, cheating, forcible entries and detainers, kidnapping, &c. In fine, every offence of a public and evil example, contrary to good morals, the punishment whereof this court can inflict, is within your duty to present.

Your presentments are made either by bill of indictments presented to you by the attorney for the Territory, or by a presentment, properly so called, which is the notice taken by you of any offence, from your own knowledge and observation, without any bill of indictment being laid before you, upon which, if the object admits of it, and is properly supported by evidence, an indictment is afterwards framed.

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On the subject of offences, I find myself impelled to animadvert upon a crime of a heinous nature, which is too often resorted to upon very slight and trivial occasions; I mean the practice of duelling, where both parties meet avowedly with an intent to murder, presumptuously arrogating to themselves the right to wanton with their own lives and those of their fellow-creatures, in direct contradiction to the laws both of God and man.

Challenges to fight, either by word or letter, or to be the bearer of such challenge, are punishable, by fine and imprisonment, according to the circumstances of the offence.

Where two persons coolly and deliberately engage in a duel, this being attended with an apparent intention and danger of murder, and being a high contempt of the justice of the nation, is punishable as an affray of an aggravated nature, though no mischief has actually ensued.

Where killing has been the consequence of deliberate duelling, the law has justly fixed the crime and punishment of murder on both principals and seconds.

Hence, gentlemen, you perceive that the law has made ample provision for restraining this barbarous practice; and if it comes to your knowledge that any person has committed any one of the above-mentioned crimes or misdemeanors, you are bound by your oaths to present them.

Before you retire to your chamber, I have to request that, if you find your business likely to detain you a considerable time, you will be pleased to present to the court a few of the bills which may be first found, to enable us to proceed to try the traverses while the Grand Jury is occupied with the remainder of their business; the court having it greatly at heart to save as much as possible the precious time of the industrious inhabitants who are obliged to attend here at the present season.

The justices of the court of quarter sessions for the county of Adams, in court assembled, having taken into consideration an appeal made to them by his excellency the Governor of this Territory, on the subject of certain statements made to the committee of Congress by Mr. Narsworthy Hunter, as contained in Green's Impartial Observer of the 14th of June last, do declare in the most explicit manner, that the Governor did not send to this court, for their sanction, an estimate of \$10,760, said to be for the current expenses of Adams county for the year 1799; nor did he ever send any other estimate to this court for that purpose; neither did he ever interfere, either directly or indirectly, with the proceedings of this court, in any manner contrary to the existing laws of this Territory.

Given under our hands, in court, the 6th day of August, 1800.

WILLIAM DUNBAR,
THOMAS WILKINS,
ABRAM ELLIS,
JOHN COLLINS,
HUGH DAVIS,
WILLIAM KENNER.

Estimate of the probable expenses of a public nature for the county of Adams, for the year 1799, made by the justices of the court of quarter sessions, and approved by the Governor and Judges.

For building a jail, including all materials	\$3,300
Timber for a kitchen for the same	80
Pickets for enclosing the jail	80
Sheriff's expenses, including fire-wood, water, and provisions for the prisoners for the present year	500
Carpenter's expenses in preparing the present court-house	50
For inquests held on the bodies of Ann Daugherty and Duncan, by L. Evans, before the appointment of Melling Woolley as coroner	10
For 3,000 days labor of one man, supposed to be necessary for repairing the highways	1,500
For contingencies	500
	<u>\$6,040</u>

The above is the amount of the tax ordered to be collected from the county of Adams, for the last year, which is only received in part. From the returns made by the supervisors of the highways, which are not yet perfected, it is presumed there will be a surplus on that object of \$500, and the tax on tavern licenses has amounted for the last year to \$965, making the whole surplus \$1,465; out of which an unforeseen expense of \$360, for paupers' expenses, will be paid; which objects will be introduced into the following estimate for the present year, 1800, viz:

Court-house rent for the year 1800	\$250
Sheriff's expenses, including fire-wood, water, &c. for the jail	250
Paupers' expenses for two years	600
Contingencies, including the treasurer's, commissioner's, assessor's, sheriff's, coroner's, (clerks and prothonotary extra charges,) attorney general's, and other accounts, and compensations for services rendered to the county, and not specially provided for	500
Deficiency of the contingent accounts for 1799	500
Making and repairing public highways	1,000
	<u>\$3,100</u>

Ways and Means.

Surplus of the tax for highways for the year 1799	\$500
Tax on tavern licenses for 1799	965
Tax on tavern licenses for 1800, estimated at	965
	<u>\$2,430</u>
To be raised from the county of Adams, for 1800	\$670

Certified in court, the 4th day of August, 1800.

WILLIAM DUNBAR,
THOMAS WILKINS,
ABRAM ELLIS,
JOHN COLLINS,
HUGH DAVIS,
WILLIAM KENNER.

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I, Peter Walker, Clerk of the Court of General Quarter Sessions for the county of Adams, do hereby certify, that the persons whose names are above written are justices of the peace, duly commissioned and qualified, in and for the county aforesaid; and that they signed their names unto the original of which the foregoing is a copy, in open court, the day and year above mentioned.

In testimony whereof, I have undersigned my name, this fifteenth day of September, one thousand eight hundred.

PETER WALKER.

Presentment of a Grand Jury, at October term of the Supreme Court, Mississippi Territory, A. D. 1800.

At a court of oyer and terminer, held at Natchez, for the county of Adams, on the 13th of October, 1800. The grand jury for the said county present:

1st. That it will be highly expedient to make an application to the Territorial Legislature, praying them to frame or adopt laws for the more summary trial of slaves than can at present be effected by the existing statutes of this Territory; from which may result a considerable saving in expense and time to the owners, as well as the exercise of humanity towards the slaves, by the speedy termination of the trials.

2dly. We present Hugh Davis, Esquire, a magistrate of this county, for having committed a breach of the statutes of this Territory, in defacing a record of the court of quarter sessions of this county, to wit, the certification of the court in consequence of an appeal, made by his excellency the Governor of the Territory, on the subject of certain statements made to the committee of Congress, by Narsworthy Hunter, on the 8th February, 1800, and the estimate of the probable expenses of the county of Adams, for the years 1799 and 1800, by drawing a line through four words of said record, to wit, Hugh Davis, twice written, and ordering the printer not to insert said words, contrary to the instructions of the said court.

3dly. We present that Narsworthy Hunter has been guilty of composing and uttering a malicious, scandalous, and false libel against Winthrop Sargent, Esq., Governor of this Territory, as contained in a letter purporting to be addressed to the honorable W. C. C. Claiborne, chairman of Mississippi committee, dated 8th February, 1800, in the words following: "The estimate annexed to the petition of Cato West and others, mentioned in your note, is not the amount of the tax laid on the county of Adams by a law of the Territory; but it appears to be the sum which the Governor thought necessary to be raised in that county, for the service of the last year, and it was sent by him to the first court of general quarter sessions, in order to receive the sanction of the court. This would give it immediate currency, and necessarily operate in aid of his future projects of taxation; but such a manifest prodigality of the public resources appeared upon the face of it, together with so marked an opposition to the public opinion, with regard to the place whereupon the public buildings were to

be erected, that it received the immediate disapprobation of the court; and, I believe, a similar instrument was never presented to the county of Pickering;" and, also, a malicious and scandalous libel against the Governor and Judges of this Territory, in their legislative capacity, contained in the aforesaid letter, in the words following, to wit: "The whole country were influenced by an idea that the ordinance for our government had been wantonly abused, and the Constitution of the United States as wantonly violated, at a time and under the circumstances which required no such sacrifice." Which said libels have direct tendency to expose them to public hatred, contempt, and ridicule, as also to disturb, in a violent degree, the peace and good order of society, by destroying that confidence so essential to the happiness of the people, which ought to subsist between them and their rulers; and by breaking down that respect which all ranks owe to those who are the guardians of our laws, may be productive of the worst of all human evils, the natural result of anarchy and unbridled licentiousness. The grand jury view, with horror, the late prevailing disorders, of a most alarming nature, which pervade the Territory, and which will all be the consequence of such crimes as have a manifest tendency to loosen the sacred bands that cement together the laws, the people, and their magistrates; for certainly, of all the most dreadful evils, that is the greatest which points out the means by which wicked men may resist and defeat the laws of their country, the consequences of which are too shocking to be here detailed. The grand jury expect, with confidence, that by the legal powers and influence of this honorable court, vigorous measures will be adopted to check the growing evils of our country, and, by the inflexible execution of the laws, we may be once more restored to peace, harmony, good order, and mutual confidence.

4thly. The grand jury are impressed with the fullest conviction that the second grade of Territorial Government is fraught with inconveniences which the good people of this Territory are not in a situation fully to encounter; they are persuaded, in particular, that the very considerable expense which will be occasioned by the new Legislature superadded to the county levies, already a subject of complaint, will be beyond the ability of our limited population to support, without very sensibly feeling its detrimental effects in the diminution of their small revenues; thereby procrastinating the time of extinguishing the remains of long standing debts, and of enabling their families of enjoying, at an earlier period, a few of the comforts of life. They earnestly recommend to their fellow-citizens to reflect, whether it will not meet the general wish of the Territory, that application be made to Congress to suspend the operation of the supplemental act for establishing the second grade of Territorial Government until it shall be fairly established to be the wish and desire of a majority of our citizens; this privilege will not be denied to our citizens, which has been conceded to the new Territory of Indiana, whose inhabitants, deriving wisdom from two years experience of the second grade of gov-

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ernment, have found it their interest to repose entire confidence in the Legislature appointed by and under the control of the General Government, the people still retaining in their hands the power, which cannot fail to have a happy influence over their government, to wit, that of assuming the second grade whenever it shall be the will of the majority of their citizens. The grand jury have strong reasons to believe that the majority of our citizens will approve of postponing the operations of the second grade, under the above stated privilege of assuming it whenever they shall find it expedient. The grand jury think it, therefore, a duty to present, as a grievance, that the sudden and unexpected alteration in the government of the Territory, has been brought about by the industry of fifteen persons, part of a committee of thirty-five, irregularly chosen, at whose election not one-half of the inhabitants are supposed to have attended; and which election was held for the express purpose, as the people were informed by a hand-bill, not to demand a change of the former Government, but to obtain a redress of grievances; and consequently this important measure has been effected with the implied consent of less than one-quarter part of the citizens; or, more properly speaking, by the unauthorized agency of fifteen persons, composing the minority of the committee. The grand jury feel themselves forcibly compelled by their duty to add, that so great an alarm exists in the minds of the people, on the subject of taxation, that they are of opinion that, if the second grade of government is not arrested in its present stage, and postponed until the population and finances of the Territory become adequate to the increased expense of that grade, a very great depopulation will be the inevitable consequence.

The grand jury return their thanks to the court for their excellent charge; they presume to hope, that the just sentiments therein expressed will make a happy impression on the minds of the people, contributing, with other means, to attain the desirable end so much to be wished by all good men.

WILLIAM G FORNAN,
Foreman.

Ordered by the Court, That process issue on the second and third presentations, on application of Lyman Harding, Esq., Attorney General.

A true copy, test:

ROBERT STARK, C. S. C.

MILITARY ACADEMY—REORGANIZATION OF THE ARMY.

[Communicated to Congress, January 14, 1800.]

Gentlemen of the Senate, and

Gentlemen of the House of Representatives:

A report made to me on the fifth of this month, by the Secretary of War, contains various matters, in which the honor and safety of the nation are deeply interested; I transmit it, therefore, to Congress, and recommend it to their serious consideration.

JOHN ADAMS.

UNITED STATES, Jan. 13, 1800.

WAR DEPARTMENT, Jan. 5, 1800.

The Secretary of War respectfully requests the attention of the President of the United States, to certain measures and arrangements, which appear to him to be indispensable to the improvement of our military system, and solicits, if it shall be thought proper, that the same may be submitted to Congress.

No sentiment is more just than this, that, in proportion as the circumstances and policy of a people are opposed to the maintenance of a large military force, it is important that as much perfection as possible be given to that which may at any time exist.

It is not, however, enough, that the troops it may be deemed proper to maintain be rendered as perfect as possible, in form, organization, and discipline; the dignity, the character to be supported, and the safety of the country, further require that it should have military institutions, should be capable of perpetuating the art of war, and of furnishing the means for forming a new and enlarged Army, fit for service, in the shortest time possible, and at the least practicable expense of the State.

Let it not be presumed, that a country, however distantly situated from other nations, or favored by the courage and genius of its inhabitants, can neglect, with impunity, military institutions, or that it may, safely, consider all regular force to be useless, except when there is an enemy present to employ it. A country which acts upon such a maxim will invariably attract injuries and enemies, and, sooner or later, sink by internal discords, or see its noble spirit broken down by repeated humiliations, and the whole people thus prepared for the last stage of national degradation.

If the farmer would secure his flocks, he must go to the expense of shepherds; if preserve his crops, he must enclose his fields. In like manner, to insure safety to the nation, it is necessary that the leading avenues into it be guarded by troops and fortifications. Before the invention of gunpowder, the smallest villages were invested with walls, so that a long siege was often requisite to reduce them. Since that epoch, the history of almost, if not every war, contains undeniable proofs of the utility of fortifications, and the necessity of disciplined troops, to the defence of a country. Would it be wise or expedient in us to pursue a different course, and shut our eyes against the innumerable facts on record, in favor of their essentiality? Are we without regular troops, we may soon lose the military art; are we without engineers, not a little of the money employed on fortifications will be always hazarded, if not actually thrown away, and generals of the most consummate genius forced to capitulate in the field, whose retreat might have been covered by a fortification, or the battle decided in his favor by a happily contrived intrenchment.

Since, however, it seems to be agreed, that we are not to keep on foot numerous forces, and it would be impossible, on a sudden to extend, to every essential point, our fortifications, military science, in its various branches, ought to be cultivated with

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peculiar care, in proper nurseries; so that a sufficient stock may always exist, ready to be imparted and diffused to any extent, and a competent number of persons be prepared and qualified to act as engineers, and others as instructors, to additional troops, which events may successively require to be raised. This will be to substitute the elements of an Army to the thing itself, and will greatly tend to enable the Government to dispense with a large body of standing forces, from the facility which it will give of procuring officers, and forming soldiers promptly in all emergencies.

No sound mind, after a fair view of the subject, can doubt the essentiality of military science in time of war, any more than the moral certainty that the most pacific policy on the part of Government, and the most solemn and well observed treaties, will not preserve a country from being engaged in war more or less frequently. To avoid great evils, we must either have a respectable force always ready for service, or the means of preparing such a force with certainty and expedition. The latter, as most agreeable to the genius of our Government and nation, is the object of the following propositions:

First—A Military Academy.

The object has repeatedly engaged the favorable attention of the Legislature, and some laws towards its consummation have been passed. These, however, being yet inadequate to afford the requisite instruction to officers, and others, in "the principles of war, the exercises it requires, and the sciences upon which they are founded," the adoption of a more perfect plan is conceived to be indispensable for these purposes. With this view, the following plan is respectfully suggested, formed upon those of institutions of a similar nature, from which the nations who have founded them derive the most decided advantages.

It is proposed that this Academy shall consist of four schools: one to be called "The Fundamental School;" another, "The School of Engineers and Artillerists;" another, "The School of Cavalry and Infantry;" and a fourth, "The School of the Navy;" and be provided with the following officers, professors, and teachers:

A Director General to superintend the three first schools.

A Director of the Fundamental School.

A Director of the School of Engineers and Artillerists.

A Director of the School of Cavalry and Infantry.

A Director of the School of the Navy.

Six Professors of Mathematics.

Four Professors of Geography and Natural Philosophy.

Two Professors of Chemistry, including Mineralogy.

Three Architects.

Four Designing and Drawing Masters.

One Riding Master.

One Fencing Master.

To be thus distributed among the several Schools:

To the Fundamental School.

One Director.

Four Professors of Mathematics.

Two Professors of Geography and Natural Philosophy.

One Designing and Drawing Master.

One Professor of Chemistry.

To the School of Engineers and Artillerists.

One Director.

Two Professors of Mathematics.

Two Professors of Geography and Natural Philosophy.

One Professor of Chemistry.

Two Architects.

Three Designing and Drawing Masters.

To the School of Cavalry and Infantry.

A Director.

A Riding Master.

A Fencing Master.

To the School of the Navy.

A Director.

A Professor of Mathematics.

A Professor of Geography and Natural Philosophy.

An Architect.

One Designing and Drawing Master.

The Fundamental School is designed to form Engineers, including Geographical Engineers, Miners, and officers for the Artillery, Cavalry, Infantry, and Navy; consequently, in this school is to be taught all the sciences necessary to a perfect knowledge of the different branches of the military art.

The School of Engineers and Artillerists, to teach those admitted therein, and appointed or designed for Engineers, the application of the theoretic knowledge which they had acquired in the Fundamental School, to the construction of all sorts of fortifications and military buildings appertaining thereto, to mines, and counter mines, sieges, attack, and defence, to mineralogy, to the art of projecting and constructing bridges, roads, canals, and maritime posts, and all works relative thereto, to all geographic and topographic operations, the calculations relative to the same, to designing and drawing charts, &c.

To those appointed or designed for the Artillery service, the application of the theoretic knowledge, acquired in the Fundamental School, to the construction of gun-carriages, pontoons, the fabrication of cannon and fire-arms, and all the manœuvres of war which depend upon artillery.

The School of Cavalry and Infantry, to teach those admitted therein, and appointed to, or destined for, the cavalry, the tactics, exercise, and police of cavalry; those for the infantry, the tactics of infantry, and all that concerns the police of an army, in the field and in quarters.

The School of the Navy, to teach those appointed to, or destined for, this service, the application of the knowledge acquired in the Fundamental School in arithmetic, algebra, geometry, statics, and navigation. To this end, after having passed examination, they shall make voyages or

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cruises, under skilful officers, for certain periods, during which time they ought to be exercised in the manœuvres and observations most useful in service, and be instructed in whatever respects rigging of vessels of war, pilotage, and the management of cannon.

Functions of the principal officers.

The Director General to have the general superintendence of the schools, particularly of the Fundamental School; to occupy himself incessantly with the means of attaining the end of the institution, which is the greatest possible instruction to the pupils.

He will inform himself of their progress in the studies relative to the service to which they are destined, and collect all the facts proper to be laid before the President. to enable him to form an opinion of the fitness of any individual, who has not had one, for an appointment; or, in case he has, to judge how, and when, his talents can, upon occasion, be most beneficially employed.

He will attend, particularly, to the execution of whatever respects the admission of pupils; their transfer from the school of theory into that of practice; their passage from one class or division, in the same school, to another; and the examinations which they ought respectively to undergo.

He will propose a list of the officers of the Army, proper to be received into the schools, and will furnish the Secretary of War with information, from time to time, relative to their progress, conduct, and capacity to fill stations to which their genius and knowledge may particularly point.

He will give such certificates to the officers, cadets, or pupils, as they shall have merited.

The directors of each of the military schools will receive, from the Director General, instructions detailing their functions and powers; to him they will make their reports.

With respect to the School of the Navy, the director thereof will receive his instructions from the Secretary of the Navy.

The Director General, and the other directors, to be officers of the Army or Navy, according as the studies and exercises of the particular school shall be most intimately connected with either service.

These schools to be provided with proper apparatus and instruments, for philosophical and chemical experiments, for astronomical and nautical observations, for surveying, and such other processes as are requisite to the several topics and branches of instruction.

The site of schools of Engineers and Artillerists, and of the Navy, ought to be on navigable water. For this purpose, a piece of ground ought to be purchased, sufficient for experiments in tactics, gunnery, and fortification. The situation upon a navigable water is also requisite, to admit of specimens of naval construction and naval exercises.

It would also tend greatly to the perfection of the plan, if the academy of Artillerists and Engineers was situated in the neighborhood of foundries of cannon and manufactories of small arms.

Barracks and other proper buildings must be

erected, for the accommodation of the directors, professors, and students, and for the laboratories and other works to be carried on at the respective schools.

The cadets of the Army, and a certain number of young persons, destined for military and naval service, ought to study at least two years in the Fundamental School; and if destined for the corps of Engineers or Artillerists, or for the Navy, two years more in the appropriate school; if for the Cavalry or Infantry, one year more in the appropriate school. But persons who, by previous instruction elsewhere, may have become acquainted with some or all of the branches taught in the Fundamental School, may, after due examination by the directors and professors of that school, be either received then for a shorter time, or pass immediately to one or other of the schools of practice, according to the nature and extent of their acquirements and intended destination.

In addition to these, detachments of officers and non-commissioned officers of the Army ought to attend one or other of the schools, in rotation, for the purposes of instruction and exercise, according to the nature of the corps to which they respectively belong.

It may be noticed also in this place, that it would be a wise addition if Government would authorize such a number of sergeants, supernumerary to those belonging to the regiments on the establishment, as would suffice with them for an army of fifty thousand men. All the supernumeraries to receive, according to their capacities, instruction at the academy, and occasionally sent to do duty with the Army.

This outline of a Military Academy, which is conformable to that of similar institutions in other countries, particularly in France, is not meant to imply anything conclusive; the plan may be modified, perhaps, to advantage. At all events, it ought to be left with the President to proportion the number of cadets, and others, to be admitted into the schools, and to prescribe, definitively, relative to the requisites to entitle to admission, the periods of novitiate, transfers from the schools to particular corps, and whatever respects organization, regulations, and police.

And here it may be proper to observe, that though provision should be made by law for the proposed establishment, in its full latitude, yet it may be left in the discretion of the President to appoint so many of the professors and masters only, as experience shall show to be necessary.

Will it be thought superfluous to remark, relative to the utility of this institution, that it is from the military schools of France have issued those general and other officers, whose skill and recent achievements in war have rendered them subjects for military history, and enabled the present governors of that nation, successively, and almost instantaneously, to form immense disciplined armies.

Is it not greatly desirable to be so provided and prepared for all emergencies?

An enemy who meditates invasion will naturally examine what he will have to encounter before he undertakes it. Acting with common pru-

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dence, he must proportion his military array to the obstacles in fortifications and disposable force it will have to overcome, and which may be so stationed and improved, as to require from him an army and apparatus, expensive beyond his resources to support. Our country, by a skilful application of very moderate means, may thus avert from its bosom the most expensive and calamitous wars.

In treating upon such an institution, it was encouraging to reflect, that, happily, it coincided with your uniform wish to see our country placed in a situation which would entitle the just maxims of its policy to be respected, and enable it to meet any adverse accidents it may be reserved to encounter.

The measure proposed has also the high sanction of our late venerated President, whose talents and services were devoted, not to produce personal results, but to render a whole people great, flourishing, and happy.

"The institution of a Military Academy," this great man observes, in his last impressive speech, "is also recommended by cogent reasons; however pacific the general policy of a nation may be, it ought never to be without an adequate stock of military knowledge for emergencies." The first would impair the energy of its character; and both would hazard its safety, or expose it to greater evils, when war could not be avoided. Besides, that war might not often depend upon its own choice. In proportion as the observance of pacific maxims might exempt a nation from the necessity of practising the rules of the military art, ought to be its care in preserving and transmitting, by proper establishments, the knowledge of that art. Whatever argument may be drawn from particular examples, superficially viewed, a thorough examination of the subject will evince that the art of war is at once comprehensive and complicated; that it demands much previous study; and that the possession of it, in its most improved and perfect state, is always of great moment to the security of a nation. This, therefore, ought to be a serious care of every government; and, for this purpose, an academy, where a regular course of instruction is given, is an obvious expedient, which different nations have successfully employed."

Will not the patriotism and good sense of our country readily consent to found an institution, at a moderate expense, recommended by such authorities, and which must produce the happiest effects? And yet, it ought not to excite surprise, if, in a season of profound peace, the minds of a generality of a people, partaking of the public calm, should become inattentive to the storm that may be collecting at a distance. Are we in the midst of that profound calm, and can the eye perceive no cloud in the horizon? But, were the heavens without one threatening spot, and peace universal on earth, ought the watchmen of a nation to trust to such evanescent and deceptive appearances? And will not an intelligent people, instructed by the wisdom of ages, and having every reason to confide in those to whom they

have assigned the direction of their affairs, gladly see establishments arise, and arrangements made, which shall render the thunder harmless when it shall burst over their heads. In such conjunctures, (and such must happen to the United States,) corps of well-instructed officers and troops are to a country, what *anchors* are to a ship driven by a tempest towards a rocky shore.

Second—A modification of the two Regiments of Artillerists and Engineers, so as to create, instead thereof, one Regiment of Foot Artillerists, another of Horse Artillerists, and a third of Engineers.

It is conceived, that the entire union of the officers of artillerists and engineers in one corps, as in our present establishment, is not advisable. The art of fortification, and the service of artillery, though touching each other in many points, are, in the main, distinct branches, and each so comprehensive, that their separation is essential to perfection in either. This has been ascertained by long experience. Among the Powers of Europe, there is not one recollected, which, at the present day, is not conscious of this truth. When any of them have attempted to unite these corps, the disadvantages which resulted were soon felt to be so momentous, as to produce conviction that each required a separate organization. Such an union was once attempted in France.

According to an ordinance of the 8th of December, 1755, the artillery and engineer corps of that nation, which had been separate, were combined into one. The experiment, however, was of short duration. In 1758, the engineer corps was disjoined from the corps of artillery, and called, as before, the corps of engineers, since which time these corps have remained separate.

The two regiments of artillerists and engineers consist of the following officers, non-commissioned officers, and privates; each of, viz:

- | | |
|----------------------------------|------------------------------|
| 1 Lieutenant Colonel-commandant, | |
| 4 Majors, | |
| 1 Adjutant, | |
| 1 Quartermaster, | } each being a Lieutenant, |
| 1 Paymaster, | |
| 1 Surgeon, | |
| 2 Surgeon's Mates, | |
| 16 Captains, | |
| 32 Lieutenants, | besides the three above-men- |
| tioned, | |
| 32 Cadets, | |
| 4 Sergeant-Majors, | |
| 4 Quartermaster-Sergeants, | |
| 64 Sergeants, | |
| 64 Corporals, | |
| 1 Chief Musician, | |
| 10 Musicians, | |
| 128 Artificers, | |
| 768 Privates. | |

Let the regiments of foot artillerists and horse artillerists consist each, as follows, viz:

- | | |
|----------------------------------|----------------------------|
| 1 Lieutenant Colonel-commandant, | |
| 3 Majors, | |
| 1 Adjutant, | |
| 1 Quartermaster, | } each being a Lieutenant, |
| 1 Paymaster, | |

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- 1 Surgeon.
- 2 Surgeon's Mates,
- 12 Captains,
- 24 Lieutenants, besides the three above-mentioned.
- 24 Cadets,
- 3 Sergeant-Majors,
- 3 Quartermaster-Sergeants,
- 48 Sergeants,
- 48 Corporals,
- 1 Chief Musician,
- 12 Musicians,
- 780 Privates, including Artificers.

The artificers forming a part of each company in the regiments as they now exist, to form two companies of miners, and two companies of artificers, to be arranged as will be hereafter noticed.

It is also proposed: First, In the event of a war, that these two regiments shall be augmented to the complement of officers and men, composing the existing regiments of artillerists and engineers. Second, That the regiment of horse-artillerists shall perform their service on horseback during war only. Third, That provision be made to enable the President of the United States, in case war shall break out between the United States and a foreign European Power, or in case imminent danger of invasion of their territory, by any such Power shall, in his opinion, be discovered to exist, to organize, and cause to be organized, two additional regiments of horse-artillery. Fourth, That the officers which shall become supernumerary, by this aforesaid organization, shall, at the discretion of the President, be transferred to fill vacancies in other regiments, on the establishment, corresponding with their grades, or be retained to fill appropriate vacancies which shall happen in their respective regiments, by deaths, resignations, &c.

In addition to the economical effect of the latter arrangement, it may be mentioned, that the officers to one whole battalion of the second regiment of Artillerists and Engineers have not yet been appointed.

The regiment of engineers consisting entirely of officers, if we exclude the companies of miners, it remains to speak of its organization.

Let it consist of, viz:

- Two Lieutenant Colonels, one first and one second, as already provided by law,
- Three Majors,
- Twelve Captains,
- Twenty-four First Lieutenants,
- Twenty-four Second Lieutenants,
- Twenty-four Cadets.

The companies of miners and their laborers to be under the direction and immediate command of officers of this corps, and to make a part thereof.

It will be perceived, and it is observed with regret, that, the engineer regiment cannot be immediately formed, by the mere act of transferring into it officers from any of the existing regiments. In order to answer its high destination, it must be filled slowly, and under the exercise of great caution and responsibility.

For this purpose, selections may be made from among the officers of the army, and others who shall have passed through the military schools, and prescribed examinations, and obtain certificates of their possessing the requisite knowledge and qualifications.

It may also be permitted, in cases of uncommon urgency, requiring the completion of the corps, to choose officers among our citizens, whose professions or functions are most analogous to those of engineers, after an examination made by a special commission named by the President.

But let it be remembered, that this corps is too essential to the success of military operations, to be hurried in its formation, or composed of other than persons qualified to discharge its high and important functions. Is authority necessary to support this truth? A general, of the first reputation as a commander, observes on this subject, in speaking to his Government of an officer, who had been killed in action, "He was the best officer of engineers, a body on which so much of the success of campaigns and the fate of a country depend, and where the least fault may be attended with the most fatal consequences."

The horse-artillery being a subject that cannot fail to attract attention, it will not, it is conceived, be deemed superfluous to submit a few observations and facts, relative to its structure, advantages, and importance.

The Prussians were the first who employed horse-artillery, invented by the great Frederick, at a time when the league which was formed against him, called upon his genius to multiply his resources. It was then, that the same army, transported with a celerity and precision, till then unknown in war, was seen to triumph against superior forces during the same campaign, upon opposite frontiers, to the east and to the west of his States. It was then were seen horse-artillery accompanying strong advanced bodies of cavalry without embarrassing, or retarding, their rapid marches and evolutions.

Horse-artillery was introduced into the *Austrian* army during the reign of *Joseph II.*, but it was not made a principal object, and remained in a state of imperfection. The cannoniers were transported upon the ridges of covered caissons, stuffed in the attitude of men on horseback. These carriages were called *Wurst-wagen*.

Some attempts were made in *France* to introduce the horse-artillery before the Revolution there; the subject, however, was not well understood; the general officers, who were present at the attempt, proposed to place the cannoniers, like the *Austrians*, on *wursts*.

In 1791, Mr. Duportail, Minister of War, authorized the commandant of the division of Mity to form two companies of horse-artillery. The success of this experiment was decisive, and answerable to the minister's expectations. The officers and men were in a few weeks in a condition to manoeuvre with light troops.

In 1792, Mr. Narbonne, who succeeded to Mr. Duportail, composed a committee of the most enlightened officers of the army, to examine and

decide upon the means of improving and extending, in the French army, the use of horse-artillery.

As no better idea can be given of this new military arm, than what is reported of the result of this conference, the Secretary takes the liberty to introduce it.

These officers resolved, as fundamental points—

1. That a numerous horse-artillery well served, and kept complete in cannoniers and horses, was the most certain means to protect the evolutions of troops *indifferently instructed*, to support their attack with bayonets, and to render null, by positions seasonably taken and with celerity, the advantage which troops *better disciplined*, might confidently promise themselves from superiority in manœuvres.

2. That with respect to the employment of this arm, the rules of service, instruction, &c., the horse-artillery ought to differ from the field-artillery only, in having its pieces so managed, as to be drawn with the utmost celerity wherever they can produce the greatest effect, and in the cannoniers being able to follow their guns, and commence action as soon as they are placed.

3. That to fulfil this object, it is more convenient to have the cannoniers all mounted on horses, than a part of them on *wursts*, because on horses they are less subject to accidents, their movement more rapid, their retreat more secure, and the replacing of horses easy.

4. That without excluding any caliber, it appears pieces carrying balls of eight and twelve pounds, and howitzers, may be most advantageously employed.

5. That it is unnecessary to discipline a horse-artillerist in the manœuvres of cavalry; that this would be a departure, without utility, from the principal object; that it is enough for him to know to sit firm on his horse, to mount and descend quickly, and conduct him boldly; that it is not requisite to oblige him to preserve any order in following his piece, leaving it to his intelligence to learn, if he chooses, to execute the manœuvres of cavalry.

6. That the manœuvre, *à la prolonge*, ought to be employed in every case in which it is practicable to use it. That the horses remain attached while the pieces are firing; one gains thereby all the time which would be lost in removing or replacing the *avant train*, and thus one may pass fosses and rivers with the utmost celerity, and profit of positions.

7. That in order to form at once a requisite number of companies of horse-artillery, without weakening the artillery regiments, it is sufficient to employ for every piece two skilful cannoniers, and to draw upon the infantry for the rest.

On these principles the French have organized an establishment in their armies, from which they have derived the most important advantages in most, if not all their campaigns.

The decisive agency of horse-artillery in *offensive war* was manifested in the invasion of Belgium by General Dumouriez, at the end of his campaign in 1792. The affair of Waterloo is

equally in point, as to its superiority in *defensive operations*.

Whilst General Pichegru commanded the army of Flanders, four thousand cavalry, manœuvring with his horse-artillery, sustained the immense effort of an army of thirty thousand men, supporting an artillery chiefly of a different kind, of at least triple the force of that opposed to it.

Bonaparte, at the battle of Castiglione, after raising the siege of Mantua, having re-assembled several divisions of his horse-artillery in a well-chosen position, under General Domartin, broke, by their means, the Austrian line, and thus decided a victory upon which depended the most important consequences in his favor.

It is also certain, that the horse-artillery contributed not a little to gain the battle of Ettingen, where General Moreau, very inferior in cavalry, maintained, by its means, his left wing against the whole cavalry of the Archduke. The application of the horse-artillery procured to General Hoche, upon the Rhine, in the late affair of Neuvied, like success.

The Archduke Charles, instructed by such events, has greatly augmented and improved this arm of the Austrian army. The English, also, have lately introduced horse-artillery into their service, but, it is supposed, too sparingly to derive therefrom its full effect.

Can an agent, so superior in all offensive and defensive operations, and so vastly important from its nature, as well as the use made of it by other nations, be dispensed with in the composition of our army, or neglected with impunity?

The author of a recent work, entitled "*Précis des évènements militaires*," published in numbers at Hamburg, from which most of the aforesaid facts respecting this powerful military agent have been taken, observes, "that it is become indispensable in all armies; it can accompany almost everywhere cavalry; it crosses rivers and morasses impassable to foot artillery; it thunders in mass and with great rapidity upon an unexpected point of attack; turns a body of the enemy; takes him in flank or rear; can perform the service of advance posts; of artillery position; of the rear guard, and, in fine, that of a corps of reserve, from which detachments may be made as wanted. It is free from the inconvenience ascribed to foot artillery, of retarding and restraining the manœuvres and marches of troops; the French have, therefore, already confined the use of foot artillery to the service of sieges, with the exception of four pounders, which they have yet left attached to battalions."

Horse artillery would seem to be peculiarly recommended to the United States, by the reflection that all attacks on the seaboard must be made by an enemy, water borne from a distant country, who will consequently be ill provided with horses, whereas the United States, having a knowledge of this agent, and resorting to their resources in horses, might be able to oppose a horse artillery so superior and so promptly, as to give decided advantages in attack or defence, and relieve their territory from being ravaged, or long possessed in

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any part of it. If the United States shall prevent an enemy from procuring the horses of the country, and shall maintain a superiority in this forcible arm, they will have little to fear from invaders, however powerful in infantry.

The two regiments of artillery and engineers, as they now stand on the establishment, cost the United States four hundred and twenty-seven thousand five hundred and fifty-three dollars and eighty cents annually. There will result from the proposed arrangement of these regiments, as will appear by schedule A, a difference in time of peace of twenty thousand nine hundred and fifty-five dollars and thirty cents annually, which sum may be applied to the expenses of the Military Academy.

When the preceding propositions are respectfully submitted, as essential to the improvement of our Military Establishment, it would be improper to overlook such other measures as may occur, and, it is believed, would conduce to perfect our preparations for securing our rights.

The importance of the volunteer associations or companies, which may be accepted under "An act authorizing the President to raise a Provisional Army," passed the 28th May, 1798, has heretofore been presented by the Secretary. They may be considered as a reserve body, from which prompt and efficient reinforcements can be drawn to our regular army, and as rallying and supporting points, when completely organized into regiments, brigades, and divisions, for the militia, in all cases of great and comprehensive urgency or danger.

A revision of the law respecting these valuable associations is earnestly recommended. No other force being so economical, will it not be proper, in order to derive full and permanent utility from the volunteer companies in all hazardous conjunctures, that the power of the President to accept their patriotic offers of service should no longer be confined to a limited period, and that the duration only of their engagements, after acceptance, should be defined by law. Can a time be fairly presumed to arrive when we can have nothing to apprehend from either foreign or domestic enemies?

An omission in the law to provide the same compensation to the volunteer cavalry, for the use of their horses, that is allowed to militia cavalry, when in actual service, has been felt with some sensibility by the former, who were employed during the last insurrection in the same service with militia cavalry. It is, therefore, recommended that an appropriation be made for compensating the volunteer cavalry so employed, for the use of their horses during their service, at the same rates of allowance which have been paid to the militia cavalry on the same service; and that equal rates of compensation for the future shall be provided for both by law, for the use of their horses in actual service.

The militia of the United States ought to be considered as an essential arm of our defence, and a sure resource from which reinforcements may be drawn to supply deficiencies in the regular army, in the event of a sudden invasion, or the wasting progress of a long war.

To obtain their aid, however, with celerity and order in such cases, other provisions are necessary than are to be found at present in the laws.

The act of the 28th February, 1795, authorizes the President, whenever the United States shall be invaded, or in imminent danger of invasion from any foreign nation or Indian tribe, to call forth such numbers of militia of the State or States adjoining, most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for the purpose to such officer or officers of the militia as he shall think proper.

To give effect to this power, and enable the President to carry upon an enemy with promptitude the force nearest to, or best calculated to, annoy him, it is indispensable that he should know the number and species of militia in each county of a State, and the names and places of residence of their officers respectively.

If these particulars are not precisely known to the President at the time the force is wanted, the delay which must necessarily intervene in the circuitous course of orders and instructions, will often, if not always, be productive of disastrous consequences. To avoid these, the proper officer of the militia in each State should be obliged, by heavy penalties and high responsibility, to make quarterly returns to the Department of War, comprehending the aforesaid particulars.

The troops raised under, and conformably to the provisions of "An act to augment the Army of the United States, and for other purposes," passed the 16th July, 1798, demand at this time particular attention.

This additional force was to consist of twelve regiments of infantry and six troops of cavalry, the latter intended, with the troops of cavalry heretofore and now in service, to form one regiment of cavalry. For the infantry, the officers have been appointed, and the recruiting service some time in operation. For the cavalry, the officers have also been appointed; but, to avoid the expense of this kind of troops, which is always much greater than any species of foot, the recruiting service has not been ordered as yet into operation, nor have horses been purchased, although preparatory measures have been taken.

For the twelve regiments of infantry, the enlistments amount as follows, according to the last returns which have been received by the Department:

From the fifth regiment, which is the first of the twelve, there has been no returns.

Returned for the sixth regiment, enlisted in North Carolina, from August to December, 1799, viz: 134.

For the seventh, enlisted in Virginia, from May to the first Monday in November, 1799, viz: 258.

For the eighth, enlisted in Virginia, from May to October the 1st, 1799, viz: 424.

For the ninth, enlisted in Maryland, from May to September the 17th, 1799, viz: 314.

For the tenth, enlisted in Pennsylvania, from May to August the 1st, 1799, viz: 448.

For the eleventh, enlisted in New Jersey, Penn-

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sylvania, and Delaware, from April to the first Monday in October, 1799, viz: 458.

For the twelfth, enlisted in New York, from May to the first Monday in September, 1799, viz: 287.

For the thirteenth, enlisted in Connecticut, from May to the first Monday in November, 1799, viz: 371.

For the fourteenth, enlisted in Massachusetts, from May to the first Monday in November, 1799, viz: 327.

For the fifteenth, enlisted in Massachusetts and Maine, from June to the first Monday in November, 1799, viz: 145.

For the sixteenth, enlisted in New Hampshire, from July to the first Monday in November, 1799, viz: 233.

Total enlisted, 3,399.

Agreeably to the provisions of the act of the 16th July, 1798, all these troops have, by the terms of their respective enlistments, engaged "for and during the continuance of the existing differences between the United States and the French Republic."

The Secretary thinks it necessary to mention that, immediately upon the accommodation of the existing differences aforesaid, the engagements of these troops will expire, and every man be entitled to demand his discharge. That, in consequence, if it shall be deemed expedient to keep up a Peace Establishment more extended than heretofore, or any events should intervene to render a larger army indispensable, it will not be practicable to apply one of these men to the same, who have already received a bounty, without a re-enlistment, and the expense of a new bounty.

It is, therefore, thought advisable that the terms of enlistment prescribed by the law be superseded by a provision in future to enlist for the term of five years, if not sooner discharged. This modification leaves with the President the power of reducing the numbers of the army at any time to a prescribed establishment; and if the negotiations of our Envoys to the French Republic shall be successful, it will procure a number of men who, without additional expense, can be retained, if necessary, in service for the period mentioned—a measure which appears equally recommended by its policy and economy.

The Secretary has before observed, that if the United States shall prevent an enemy from procuring the horses of the country, and maintain a superiority in horse artillery, they will have little to fear from an invading enemy, however powerful in infantry. It certainly would be an important addition to our system of defence, was an arrangement devised to deprive an enemy, as much as possible, after he had effected a landing upon our coast, of the means of subsistence, and especially to prevent him from possessing himself of horses, indispensable to the transportation of his baggage, stores, and provisions, and for his artillery and cavalry.

An operation promising to be so efficient, and sanctioned by experience in other countries, will perhaps require on the part of the Government a

promise of indemnification to the individual for the value of all stock and horses which may be removed in consequence of invasion, if not restored to their respective owners.

Provisions and restrictions, it is conceived, may be made, calculated to secure the public against frauds, and to encourage, at the same time, the aid of proprietors themselves in the execution of such a law. It should explicitly provide that no compensation will ever be allowed for property of the kind described, destroyed either by the enemy or by our own army, to prevent its falling into the hands of an enemy; in all cases where it shall appear no previous preparation or exertion had been made use of to remove it, and authorize the destruction of all stock, and horses in particular, left in an exposed situation, when necessary, to prevent their being useful to an enemy, or employed against the armies of the United States.

The Government of a country blessed with every convenience for an extensive foreign trade, and peopled with inhabitants distinguished for their commercial spirit, will, from the natural operation of circumstances, and the impulse given by its citizens, consider it a duty to prepare either gradually or promptly, as policy, interest, or necessity, may dictate, the means of affording protection to its property on the ocean.

We find, accordingly, the foundation of a navy already laid, and its advantages so far felt as to induce a belief its progress will be permitted to keep pace with the purposes for which it was instituted. This navy, however, which is specially intended to protect trade, will in its turn require to be protected, when in harbor, by suitable fortifications. Without a place of safety to which it may retire from a superior fleet, the labors and resources of years may be destroyed in a single hour.

The fortifications erected for the defence of our cities and harbors cannot yet be considered competent to afford this security. Many new and extensive works, even at those places where the fortifications are advanced, will yet be required to render any of them a secure asylum for our navy.

Whenever, therefore, the harbors in which our dock yards and great naval deposits are to be established, and to which our navy may retire in time of war or danger, shall be determined upon, it will be indispensable to make them impregnable, if possible, to an enemy.

Schedule B will show the sums which have been appropriated and annually expended in fortifying our harbors since the "Act to provide for the defence of certain ports and harbors in the United States," passed the 20th March, 1794, and the balance remaining on the 1st October, 1799.

The Paymaster General of the Armies of the United States has been, agreeably to the provisions of the 15th section of "An act for the better organization of the troops of the United States, and for other purposes," quartered by direction of the late Commander-in-Chief, at the seat of Government, it being the station deemed most proper, to enable him to perform his functions with conve-

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nience, facility, and the least probable risk of the public moneys.

The functions of this office are, by law, highly important—his trust is eminently responsible. All moneys for the pay of the armies pass through his hands, including military bounties and the subsistence and forage of officers, and he is the auditor, in the first instance, of all accounts for such objects.

The compensation provided for him is eighty dollars per month, with the rations and forage of a major. This compensation the Secretary conceives, not merely inadequate to remunerate the duties and responsibilities attached to the office, but insufficient for the decent support of a respectable character, and certainly none other should fill it.

It is, therefore, respectfully suggested to increase the compensation to the Paymaster General of the Armies of the United States, and submitted whether it might not be attended with some beneficial effect to vest him with a suitable brevet rank in the army.

The regularity, discipline, and, of course, the efficiency of all armies have always depended very essentially upon the system provided for their government. Impressed with this conviction, the Secretary takes the liberty to bring into your view, "the rules and articles for the better government of the troops raised, or to be raised, and kept in pay, by and at the expense of the United States of America." This system contains many excellent provisions, but experience has produced a pretty general wish among military men, that it could be submitted to a complete revision, as in many particulars it is presumed to require amendments.

This revision would be a very serious work, and there is reason to fear could not be undertaken, with a prospect of being speedily finished. Some things, however, can be done, which would be important improvements.

A great obscurity envelopes the provisions of the existing articles, respecting the power to appoint or order general courts martial. One construction, by confining the power to the General or Commander-in-Chief only, is inconveniently narrow, and has occasioned too great delay, as well in instituting courts, as in giving effect to their sentences. Another construction, which has been practised upon, (commandants of posts, as such, of whatever grade, having assumed the power of constituting general courts martial,) is too much diffused, and would place in too many hands a trust no less delicate than important.

To attempt to attain the proper medium by a more exact legislative definition, of the characters who may exercise the power, would perhaps be attended with difficulty, and might often not meet the new situations which are constantly occurring in the infinite combinations of military service. The expedient which has appeared most proper, is to give a discretionary authority to the President, to empower other officers, (than those the soundest interpretation has decided to be designated by the articles of war, viz: Generals, or those on whom a General's command has devolved,) to

appoint general courts martial, under such circumstances, and with such limitations, as he may deem advisable.

The provisions which refer the determination on sentences extending to the loss of life, or the dismissal of a commissioned officer in the time of peace, to the President, must no doubt have frequently been attended with perplexity to him, and are inconvenient, if not injurious to the service.

It is scarcely possible, for any but the military commander, to appreciate duly the motives which, in such cases, demand severity, or recommend clemency. To this, an accurate view of all the circumstances of the army, in detail, is often necessary. The efficacy of punishment, when requisite in an army, depends much on its celerity, and must be greatly weakened by the unavoidable delay of a resort to the Executive: during which delay, the mischief it was intended to remedy, may, and sometimes most probably will, have happened. The reasons mentioned induce an opinion, that it is expedient to empower the commanding general of an army, to decide upon, and command to be executed when proper, all sentences of general courts martial, except only such as respect a general officer. The responsibility of the commanding general to the President, and to his country, must insure a discreet exercise of the required authority, and its utility is manifest.

The best mode of treating the crime of desertion has been an embarrassing investigation in most countries. To fix upon a punishment, that gives the surest promise of checking or preventing the evil, or which, when it does happen, in its application will be most analogous to the generally received opinions of a country, and the habits of military life, is indeed difficult. The same punishment ought not, perhaps, to be applied to this crime, the most injurious to armies, and complicated in its nature, at all times and under all circumstances.

To punish it with death in time of peace in all cases, would, in this country, do violence to the popular habits of thinking. Whipping is found to be ineffectual. Confinement to hard labor, it is supposed, will produce more beneficial results, and courts martial have, in their discretion, been lately much influenced by this belief. As, however, our soldiers are enlisted for given periods, when an engagement is nearly expired, confinement would be an inadequate punishment, for it could not continue beyond the term of service, and although a soldier may be supposed to have fewer inducements to withdraw from an engagement which is near terminating, yet, it has sometimes happened, and may be expected in future, that men, under such circumstances, have been the authors of combinations, to revolt, desert, and commit other crimes, consequently have been the most atrocious offenders; and it is known that they frequently have themselves deserted. To make this punishment, then, in time of peace, in all cases, commensurate with, and proportioned to, the crime, an auxiliary provision to extend the confinement and labor beyond the period of service the criminal had engaged for, would appear necessary. Such a provision would have a ten-

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dency to render the sentences of the courts less sanguinary.

The Secretary by no means designs to suggest, that it would be proper to abolish the punishment of death for desertion, even in time of peace. He considers that in aggravated and complicated cases, it would always be proper, and that in time of war or civil commotion, it should always be applied to this crime. He also inclines to the opinion, that the power of pardoning ought never to be extended in any instance of desertion, or an attempt to desert to enemies or traitors.

Connected with the perfection of our military establishment, is a code of well digested rules for the formations, field exercise, movements, and police, of the different species of troops composing our army.

Major General Hamilton has, some time since, been specially charged with this work. As it was not, however, expected that so extensive an undertaking could be completed without a subdivision of labor, and the co-operation of various talents and experience, he informs, that he has assigned to Major General Pinckney an important portion of the task. The execution, it is also understood, will require the aid of other and subordinate officers, for whose extra service a special compensation is suggested, as being agreeable to usage, and essential to a cheerful and zealous performance of their duty. This, should it meet your approbation, demands no particular act of the Legislature.

There is another point relative to the army, which he has made the subject of a recent communication to the Department of War, to which it may be proper to request attention.

The General observes, that "the detaching from their corps soldiers asservants to the various officers of the general staff is productive of material inconvenience, by withdrawing altogether, from military service, a considerable number of persons; and occasioning dissatisfaction to the commandants of corps, who never see their men removed without uneasiness, and are sometimes much disgusted by the selection of those whom they are anxious to retain. There is no doubt, he adds, that it would operate beneficially, if, after fixing the number of servants to which the several characters of the general staff should be entitled, they were to be allowed an equivalent in money, regulated by the cost of a soldier to the public, and were to be required to provide their own servants."

Should this measure be adopted, which is agreeable to an obsolete regulation of the old Congress, penalties may be devised to secure a faithful execution, which, from the force of circumstances, would be very little liable to abuse.

When treating upon military subjects, it may not be improper to give a general view of the positions of the existing regular force, composing the armies of the United States, conformably to a disposition of the same by your approbation, and that of the late commander-in-chief.

The four regiments of infantry, and the two companies of cavalry, on the permanent establishment, are disposed of as follows:

One regiment is assigned to the frontiers of Tennessee and Georgia. There are also in that quarter the two companies of cavalry.

The three other regiments are distributed along the lakes from Niagara to Michillimackinac, upon the Miami, Ohio, Mississippi, and Tombigbee.

There is also one battalion of the artilleryists and engineers distributed with the aforesaid troops.

This entire force is manifestly inadequate to the purposes it is intended to answer on our Northern, Western, and Southern frontiers.

The twelve regiments of infantry now raising, have taken, or are to take, the following provisional positions, viz:

Three of the twelve regiments of infantry in the vicinity of Providence river, near Uxbridge, Massachusetts.

Three regiments in the vicinity of Brunswick, New Jersey.

Three regiments in the vicinity of Potomac near Harper's Ferry, Virginia.

Three regiments in the vicinity of Augusta, above the Falls of Savannah.

This disposition, it is conceived, combines considerations relative to the discipline and health of the troops with the economical supply of their wants. It has, also, some military aspects, in the first instance, towards the security of Boston and Newport; in the second, towards that of New York and Philadelphia; in the third and fourth, towards that of Baltimore, Charleston, Savannah, and the Southern States generally, and in the third, particularly towards the reinforcement of the Western army.

The residue of the two regiments of artilleryists and engineers, except one battalion stated to be on our Northern, Western, and Southern frontiers, are stationed in our sea-board fortifications, from Portland, Massachusetts, to the St. Mary's, Georgia. From these are to be drawn two battalions in succession for the army, when in the field, with a view to a course of regular instruction.

Schedule C exhibits the actual force (according to the latest returns) of the four regiments of infantry, and two companies of cavalry on the old establishment, and the two regiments of artilleryists and engineers.

All which is respectfully submitted.

[The tabular statements are omitted.]

MILITARY ACADEMY.

[Communicated to the House, Feb. 13, 1800.]

WAR DEPARTMENT, Jan. 31, 1800.

SIR: I have the honor to submit, in compliance with your requisition, a few supplementary observations, and a view of the probable expense of the military schools respectfully recommended to consideration in my report, communicated to Congress by a Message dated the 13th instant from the President of the United States.

The report contemplates certain military schools as an essential means, in conjunction with a small

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Military Establishment, to prepare for, and perpetuate to, the United States, at a very moderate expense, a body of scientific officers and engineers, adequate to any future exigency, qualified to discipline for the field, in the shortest time, the most extended armies, and to give the most decisive and useful effects to their operations.

It is not conceived that the United States will ever think it expedient to employ militia upon their frontiers, or to garrison their fortified places in time of peace, nor that they will be disposed to place their reliance, for defence, against a foreign invading enemy, upon militia alone, but that they will, at all times, maintain a body of regular troops commensurate with their ability to maintain them, and the necessity or policy that may demand such an establishment.

To qualify and keep our citizens, in general, of suitable bodily ability, prepared to take the field against regular forces, would demand the most radical changes in our militia system, and such an uninterrupted series of training, discipline, and instruction, to be applied as well to the officers as to the men, as comports with regular troops only, while in its results the measure would be found, on account of the loss to the community, occasioned by the abstraction from labor or occupation, and direct cost, greatly to exceed in expense what would be required to support a moderate Military Establishment. This position, which is thought to be a sound one, does not bring into view the effects of the measure upon the morals, industry, and habits of the citizens.

Practically considered, may we not as well calculate to be commodiously lodged, and have the science of building improved, by employing every man in the community in the construction of houses, and by exploding from society, as useless, architects, masons, and carpenters, as expect to be defended efficiently from an invading enemy, by causing every citizen to endeavor to make himself master of the several branches of the art of war, and excluding engineers, scientific officers, and regular troops?

There is certainly, however, a system, as it respects our militia, which, if resorted to, and persevered in, may secure the utility of their services in times of danger, without much injury to the morals, or materially affecting the general industry of the nation.

When the perfect order and exact discipline which are essential to regular troops are contemplated, and with what ease and precision they execute the different manœuvres indispensable to the success of offensive or defensive operations, the conviction cannot be resisted, that such troops will always have a decided advantage over more numerous forces composed of uninstructed militia or undisciplined recruits.

It cannot yet be forgotten, that, in our Revolutionary war, it was not until after several years' practice in arms, and the extension of the periods for which our soldiers were at first enlisted, that we found them at all qualified to meet in the field of battle those to whom they were opposed. The occasional brilliant and justly celebrated acts of

some of our militia, during that eventful period, detract nothing from this dear bought truth. With all the enthusiasm which marked those days, it was perceived, and universally felt, that regular and disciplined troops were indispensable, and that it was utterly unsafe for us to trust to militia alone the issue of the war. The position, therefore, is illustrated, that, even in times of the greatest danger, we cannot give to our militia that degree of discipline, or to their officers that degree of military science upon which a nation may safely hazard its fate.

The great man who conducted the war of our Revolution was continually compelled to conform his conduct to the circumstances growing out of the experimental lessons just mentioned. What was the secret of his conduct? Must it be told? It may be, and without exciting a blush or uneasy sensation in any of his surviving companions in arms. He had an army of men, but he had few officers or soldiers in that army. Both were to be formed, which could not be effected in a single campaign, or while his regiments were continually returning home, and, like the waves of the sea, each in their turn lost in the abyss, and succeeded by new ones. It was not till after he was furnished with a less fluctuating and more stable kind of force that he could commence with a prospect of advantage, military instructions, or enforce the ordinances of discipline; and, even then, he felt that time and instructors were required to render his labors useful, and enable his army to meet the enemy upon anything like equal terms. Are we to profit by, or is this experience to be lost to our country?

The art of war, which gives to a small force the faculty to combat with advantage superior numbers indifferently instructed, is subjected to mechanical, geometrical, moral, and physical rules; it calls for profound study; its theory is immense; the details infinite; and its principles rendered useful only by a happy adaptation of them to all the circumstances of place and ground, variously combined, to which they may be applicable. Is it possible for an officer of militia to obtain a competent knowledge of these things in the short space his usual avocations will permit him to devote to their acquisition? Is it possible for any officer, having acquired a knowledge of these details, this theory, and these principles, to carry them into useful practice with a handful of militia, in the few days in each year allotted by law to trainings and exercises? Is that perfect subordination and obedience of men to their officers, and of each inferior to his superior officer, through all the grades of rank, from the corporal up to the commander-in-chief, which forms a vital principle essential to the energy and force of armies, to be acquired by, or communicated to, a body of militia organized and trained according to our laws? And does it consist with a humane and enlightened policy to march men so imperfectly instructed and disciplined, unless in cases of the last extremity, against veteran troops, (where this principle reigns in full activity,) commanded by skillful and scientific officers? Admitting, how-

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ever, that militia officers, during the few months the law permits their corps to be retained in actual service, could render their men, by incessant instruction, capable of fulfilling the object of their destination; yet, as that advantage is but momentary, as these borrowed instruments must be quickly returned to the depot which furnished them, as new ones must be resorted to, and successively instructed, what can be expected from such a system, but perpetual incoherence between the means and the end, and certain shipwreck to the best connected and combined military projects? This, to be sure, is the old story; it cannot, however, be too often repeated, because it can never be refuted.

The secret of discipline, and the importance of military science, were well known to those ancient Governments whose Generals and troops have filled the world with the splendor of their victories. According to *Scipio*, nothing contributed to the success of enterprises so much as skill in the individual officers. The severity of the Roman discipline is well understood, and the estimation in which it was held by *Cæsar*. *Livy* has observed, that science does more in war than force. *Vegetius*, that it is neither numbers nor blind valor which insures victory, but that it generally follows capacity and science in war. *Machiavel*, who has written upon military affairs, placed so much dependence on an exact discipline and military science, as to efface from his list of great Generals all those who with small armies did not execute great things: but to the committee it is unnecessary to repeat the authorities of Generals and writers of the first reputation, to show the high importance attached to military science and discipline in all ages of the world, or resort to history for evidence of its effects. They must be well acquainted with the facts, and, no doubt, will give them their due weight in considering the subjects now before them.

There is, however, an authority, so much in point relative to the essentiality of the institution in question, that I cannot forbear to mention it.

The Marshal de *Puisegur*, who has left an excellent treatise on the art of war, the result of his experience, observes:

"I have been, perhaps, at as many sieges as any of those in service, and in all sorts of grades; as subaltern, I have commanded troops and working parties in a siege; as major I have conducted to the trenches and posts to which they were destined troops and laborers; I have been major of brigade, marshal de camp, and lieutenant general: however, as I have not learned fortification, my practice has not enabled me to acquit myself in conducting attacks, so that I should be obliged to suffer myself to be instructed in many things by the lights of engineers, their practice being founded upon principles which are known to them, an advantage I have not in this branch of war."

This is the candid acknowledgment of a man who had served sixty years in the army; who had learned the military art under a father; that, in forty years service, had been present at two hundred sieges; and who had himself passed through

all the military grades, and arrived from an inferior to a superior rank, but after having deserved each successive promotion by some distinguished action.

A slight attention to circumstances, and the actual position of our country, must lead to the conviction, that a well-connected series of fortifications is an object of the highest importance to the United States, not only as these will be conducive to the general security, but as a means of lessening the necessity, and consequently the expense of a large Military Establishment.

By strongly fortifying our harbors and frontiers, we may reasonably expect, either to keep at a distance the calamities of war, or render it less injurious when it shall happen. It is behind these ponderous masses only that a small number of men can maintain themselves, for a length of time, against superior forces. Imposing, therefore, upon an enemy who may have everything to transport across the Atlantic, the necessity of undertaking long and hazardous sieges, increases the chances against his undertaking them at all, or, if he does, in despite of such circumstances, insures to us the time he must consume in his operations, to rally our means to a point, and unite our efforts to resist him.

We must not conclude, from these brief observations, that the services of the engineer is limited to constructing, connecting, consolidating, and keeping in repair fortifications. This is but a single branch of their profession, though indeed a most important one. Their utility extends to almost every department of war, and every description of general officers, besides embracing whatever respects public buildings, roads, bridges, canals, and all such works of a civil nature. I consider it, therefore, of vast consequence to the United States, that it should form in its own bosom, and out of its own native materials, men qualified to place the country in a proper posture of defence, to infuse science into our army, and give to our fortifications that degree of force, connexion, and perfection, which can alone counterbalance the superiority of attack over defence.

With these advantages in prospect, is it not incumbent upon us to hasten, with all reasonable diligence, the commencement and completion of an institution essential to realize them: and are expenditures, which give such valuable results, to be otherwise viewed than as real economy? It is a well known fact, that England had neither native artillerists nor engineers before the time of the Duke of Cumberland, and till after she established military schools.

I shall now, having respectfully submitted these observations, present an estimate of the expense of the military schools, which it appears to me ought to be immediately instituted.

Agreeably to the plan of the Military Academy, the directors thereof are to be officers taken from the Army, consequently no expense will be incurred by such appointments.

The plan also contemplates that officers of the army, cadets, and non-commissioned officers, shall receive instruction in the academy. As the ra-

The Military Academy.

tions and fuel which these are entitled to in the Army, will suffice for them in the academy, no additional expense will be required for these objects of maintenance while there.

The expenses of servants, and certain incidental charges relative to the police and administration, may be defrayed by those who shall be admitted out of their pay and emoluments.

According to the plan contemplated, fifty officers, cadets, or non-commissioned officers, may be annually instructed in the Fundamental School, and an equal number in the School of Artillerists and Engineers, the only schools which it is deemed expedient to bring into operation.

To instruct these may require, when both schools are in full activity, the following professors, viz:

In the Fundamental School.

Two professors of mathematics, at \$800 per annum, and two rations per day	-	-	1,848 20
Two professors of geography and natural philosophy	-	-	1,848 20
One professor of chemistry	-	-	824 10
One designing and drawing master	-	-	724 17
			<u>5,344 60</u>

In the School of Artillerists and Engineers.

One professor of mathematics, at \$800 per annum, and two rations per day	-	-	924 10
One professor of geography and natural philosophy	-	-	924 10
One professor of chemistry	-	-	924 10
One professor of architecture	-	-	924 10
Two designing and drawing masters, at \$600 per annum, and two rations per day	-	-	1,448 20
			<u>5,144 60</u>

Total - - - \$10,489 20

The cost of the buildings for these two schools, as the one or the other of the annexed plans shall be adopted will be, viz:

Plan by John Foncin, Engineer.

For the Fundamental School	-	\$19,423 00
The School of Artillerists and Engineers, supposed to cost an equal sum	-	19,423 00
		<u>\$38,846 00</u>

Plan by B H. Latrobe, Civil Architect and Engineer.

For the Fundamental School	-	\$40,000 00
The School of Artillerists and Engineers, supposed to cost an equal sum	-	40,000 00
		<u>\$80,000 00</u>

It may be proper to remind the committee, that no appropriation for the School of Engineers and Artillerists will be required perhaps these two

years, or till after the completion of the Fundamental School.

The Secretary takes occasion also to mention, that the laws have already made provision for four teachers or professors to the artillerists and engineers, at a salary of eighty dollars per month, and two rations per day, which may be considered equivalent to four thousand three hundred and thirty-six dollars and forty-six cents per annum; and that the act providing for raising and organizing a corps of artillerists and engineers, passed the 9th May, 1794, makes it "the duty of the Secretary of War to provide, at the public expense, under such regulations as shall be directed by the President of the United States, the necessary books, instruments, and apparatus, for the use and benefit of the said corps."

According to the plan and estimate of the buildings by Mr. Foncin, the two schools will cost thirty-eight thousand eight hundred and forty-six dollars.

According to the plan and estimate by Mr. Latrobe, the two schools will cost eighty thousand dollars.

The modification of the two regiments of artillerists and engineers will liberate twenty thousand nine hundred and fifty-five dollars annually.

The establishment of the two schools will liberate the salaries of the four teachers before mentioned, or four thousand three hundred and thirty-six dollars annually.

The books, apparatus, and instruments, directed to be provided for the use of the artillerists and engineers, are considered as an adequate offset for the books, apparatus, and instruments, required for the use of the schools; consequently, no charge has been stated in the estimate for these objects.

If, therefore, we oppose the sums thus annually liberated to the annual salary of the professors and original cost of the buildings, whichever of the plans is adopted, we shall find the measure proposed, viewed merely in the light of an operation of finance, to result in a considerable saving to the United States.

An individual would think it a good bargain to receive twenty-five thousand two hundred and ninety-one dollars, annually, the sum liberated, and to give, in lieu thereof, ten thousand four hundred and sixty-six dollars, annually, the salary of the professors, and a principal sum, equal to the cost of the buildings. In other words, he would receive fourteen thousand seven hundred and twenty-five dollars, annually, which is equivalent, at six per cent., to a capital, or principal, of two hundred and forty-five thousand four hundred and sixteen dollars; a sum greatly exceeding the estimated cost of the buildings upon either estimate.

The committee, while they perceive that the seed, which it is now proposed to sow, is to yield a future harvest, will, at the same time, justly appreciate the various beneficial consequences which must result from the immediate adoption, and the striking inconveniences, and danger to be apprehended from a postponement of the measure.

Whether our country is to be plunged into a war, or enjoy, for a length of time, the blessings

Action between the Constellation and La Vengeance.

of peace and interior tranquillity; whether the portentous events which have afflicted Europe, and, in their progress, threatened the United States, are to subside into a settled state of things; whether the blessings of peace, and the customary relations, among the transatlantic Powers, are to take place, or hostilities shall be continued, protracted, and extended, beyond their present limits; in either view, it is equally a suggestion of policy and wisdom to improve our means of defence, and give as much perfection as possible to such establishments as may be conceived essential to the maintenance of our rights, and security from insults.

The unavoidable collisions growing out of trade, and the reciprocal restrictions of great commercial States; the apprehensions and jealousies natural to Powers possessing contiguous territory; the inefficacy of religion and morality to control the passions of men, or the interest and ambition of nations; the impossibility, at times, for governments to adjust their differences or preserve their rights, without making sacrifices more to be dreaded than the hazards and calamities of war: all these considerations, illustrated by volumes of examples, teach the soundness of the axiom, *si vis pacem para bellum*. And what time more proper to prepare the materials for war than a time of peace, or more urgent, than that in which a nation is threatened with war?

I have the honor to be, with the greatest respect, sir, your most obedient servant,

JAMES MCHENRY,
Secretary of War.

HARRISON G. OTIS, Esq.,
Chairman of the Committee of Defence.

ACTION BETWEEN THE CONSTELLATION AND LA VENGEANCE.

[Communicated to the House of Reps., March 21, 1800.]

NAVY DEPARTMENT, *March 20, 1800.*

In obedience to the order of the House of Representatives of the United States, of the 18th instant, the Secretary of the Navy has the honor to lay before the House a copy of Captain Truxtun's letter of the 3d of February, together with a copy of the extract from his journal, referred to in the said letter, detailing the particulars of the engagement between the Constellation, under his command, and a heavy French ship, mounting, as he supposed, fifty-four guns.

The Secretary has received a number of letters too voluminous to trouble the House with, of dates both prior and subsequent to the action, which leave no doubt on his mind that the French ship, so gallantly defended against the bravery and superior skill of Captain Truxtun, is the same that arrived at Guadaloupe from France, in the month of December last, called La Vengeance, mounting fifty guns or upwards.

In confirmation of this opinion, the Secretary takes the liberty of stating the substance of letter

received from Captain Baker, of the Delaware sloop of war, from B. H. Phillips, Esq., American Consul at Curaçoa, and from D. M. Clarkson, Esq., Navy Agent at St. Kitts.

Captain Baker, in a letter dated Curaçoa, 8th of February, mentions that a French ship, called La Vengeance, of fifty-four guns, had left Guadaloupe on her return to France, about the 1st of February, had a very severe action with the Constellation the following night, and arrived at Curaçoa on the 6th, in a most shattered condition; that he had understood she had lost one hundred and forty men in the action, and when she escaped from the Constellation had eight feet water in her hold.

Mr. Phillips, in a letter dated Curaçoa, 9th of February, to the Secretary of State, announces the arrival there of the French ship La Vengeance, of fifty-six guns, bound from Guadaloupe to France, with a valuable cargo, and a large sum of specie, in a very distressed situation, having lost one hundred and sixty men, killed and wounded, and her masts and rigging nearly all shot away, in an engagement of five hours, within pistol shot, with the Constellation.

Mr. Clarkson, at St. Kitts, in a letter dated 16th of February states "we are certain Captain Truxtun's gallant action was fought with La Vengeance, a French man of war of fifty-four guns, and five hundred picked men, from Guadaloupe to France."

As to the conduct of any particular officer, or other persons on board the Constellation, the Secretary has no information, except what is to be found in the communications from Captain Truxtun, by which, but still more by the result of this heroic action, it appears that all the officers and men on board the Constellation must have nobly performed their duty.

The praise of having pursued, for many hours, a ship known to be of force so greatly superior to his own, to bring her to action, and of conducting that action with so much skill as to compensate for his great inferiority of force, belongs exclusively to their gallant commander.

It cannot be necessary for the Secretary to add to the eulogium bestowed by Captain Truxtun, on the brave young midshipman, James Jarvis, who gloriously preferred certain death to an abandonment of his post.

All which is respectfully submitted.

BENJAMIN STODDERT,

Secretary of the Navy.

Hon. SPEAKER of the House of Reps.

Copy of a letter from Captain Thomas Truxtun to the Secretary of the Navy.

UNITED STATES' SHIP CONSTELLATION,
AT SEA, *February 3, 1800.*

SIR: I had the honor to address you the day after my arrival at St. Christopher's, the 21st ult., as per copy annexed; after which I made every exertion in my power to get the squadron, as well as my own ship, to sea, in the shortest time possible; and gave all the commanders of the different

Action between the Constellation and La Vengeance.

vessels orders to cruise separately, in certain situations, agreeably to the copies enclosed.

On the 30th I left St. Christopher's with the *Constellation*, in an excellent trim for sailing, and stood to windward in order to occupy the station I had allotted for myself, before the road of the enemy at Guadaloupe, where I was informed a very large and heavy frigate, of upwards of fifty guns, was then lying, and early on the next day I fell in with *L'Insurgent*, Captain Murray, and the prize brig *Conquest*, of Italy, that had been fitted out to cruise with him in those seas. After a short interview with Captain Murray, I requested him to proceed to St. Christopher's without loss of time, and call on our agent there, Mr. Clarkson, for letters that I had lodged for him, which pointed out his further destination. On our parting he immediately made sail to leeward, and I continued plying to windward. At half past seven, A. M., of the following day, I discovered a sail to the southeast, to which I gave chase; and, for the further particulars of that chase, and the action after it, I must beg leave to refer you to the extracts of my journal, which is also enclosed, as being the best mode of exhibiting a just, fair, and candid account of all our transactions in the late business, which has ended in the complete dismantlement of the *Constellation*, though, I trust, to the high reputation of the American flag.

I have just fell in with the *Enterprise*, Lieutenant Shaw, returning from Curaçoa, who I send off to you with my despatches, and I shall be obliged by your sending him again to meet me at Port Royal, Jamaica, as early as possible, as I shall be impatient to hear from you, especially as we are now in want of everything, being a mere wreck.

If I had met Captain Morris, of the *Adams*, I should have taken the command of that ship and kept the station to windward, leaving him in charge of the *Constellation* to be refitted at Jamaica; but I have not been so fortunate.

I have the honor to be, with great respect and esteem, your very obedient humble servant,

THOMAS TRUXTUN.

BENJAMIN STODDERT, Esq.,

Secretary of the Navy, Philadelphia.

A circumstantial account of the engagement between the United States frigate *Constellation*, of thirty-eight guns, and a French national frigate, of fifty-four guns, on the 1st of February, 1800; taken from Commodore Truxtun's Journal, viz :

SATURDAY, February 1, 1800.

At half-past seven, A. M., the road of Bassatterre, Guadaloupe, bearing east, five leagues distance, saw a sail in the southeast standing to the westward, which, from her situation, I at first took for a large ship from Martinico, and hoisted English colors, on giving chase, by way of inducement for her to come down and speak me, which would have saved a long chase to leeward of my intended cruising ground; but finding she did not attempt to alter her course, I examined her more attentively as we approached her, and discovered her to be a heavy French frigate, mounting at least

fifty-four guns. I immediately gave orders for the yards to be slung with chains, topsail sheets, &c., stoppered, and the ship cleared, ready for action, and hauled down the English colors. At noon the wind became light, and I observed the chase, that we had before been gaining on fast, held way with us, but I was determined to continue the pursuit, though the running to leeward, I was convinced, would be attended with many serious disadvantages, especially if the object of my wishes was not gratified.

SUNDAY, February 2.

At one o'clock, P. M., the wind being somewhat fresher than the noon preceding, and an appearance of its continuance, our prospect of bringing the enemy to action began to brighten, as I perceived we were coming up with the chase fast, and every inch of canvass being set that could be of service, except the bag reefs, which I kept in the topsails, in case of the enemy, finding escape from our thunder impracticable, should haul on a wind, and give us fair battle; but this did not prove to be her commander's intention; I, however, got within hail of him at eight P. M.; hoisted our ensign, and had the candles in the battle lanterns all lighted, and was in the lee gangway, ready to speak him, and to demand a surrender of his ship to the United States of America, when, at that instant, he commenced a fire from his stern and quarter guns, directed at our rigging and spars. No parley being then necessary, I sent my principal aid-de-camp, Mr. Vandyke, to the different officers commanding divisions on the main battery, to repeat strictly my orders before given, not to throw away a single charge of powder and shot, but to take good aim, and to fire directly into the hull of the enemy, and load principally with two round shot, and, now and then, with a round shot and a stand of grape, &c.; to encourage the men at their quarters, and to cause or suffer no noise or confusion whatever, but to load and fire as fast as possible, when it could be done with certain effect.

These orders being given, in a few moments I gained a position on his weather quarter, that enabled us to return, effectually, his salute, and thus as close and as sharp an action as ever was fought between two frigates, commenced, and continued until within a few minutes of one, A. M., when the enemy's fire was completely silenced, and he was again sheering off. It was at this moment that I considered him as my prize, and was trimming, in the best manner I could, my much shattered sails, when I found the mainmast was totally unsupported with rigging, every shroud being shot away, and some of them, in many places, so as to render stoppers useless, which in fact could not be applied with effect. I then gave orders for all the men to be sent up from the gun deck, to endeavor to secure the mast, in order that we might get alongside of the enemy again as soon as possible; but every effort was in vain, for it went over the side in a few moments after, and carried with it the topmen, among whom was an amiable young gentleman, who commanded the main top, Mr. James Jarvis, son of James Jarvis, Esq., of

Naval Establishment and its Expenses.

New York. This young gentleman, it seems, was apprized of his danger by an old seaman, but he had already so much the principle of an officer engrafted on his mind, not to leave his quarters, that he replied, if the mast went, they must go with it; which was the case, and only one of them was saved. I regret much his loss, as a promising young officer, and amiable young man, as well as on account of a long intimacy that had subsisted between his father and myself, but have great satisfaction in finding that I have lost no other, and only two or three were slightly wounded; out of thirty-nine of the crew killed and wounded, fourteen of the former, and twenty-five of the latter. As soon as the mainmast went, every effort was made to clear the wreck from the ship as soon as possible, which was effected in about an hour; and, as her security was then the great object, it being impossible to pursue the enemy, I immediately bore away for Jamaica, for repairs, &c., finding it impracticable to reach a friendly port in any of the islands to windward.

I should be wanting in common justice was I to omit here to journalize the steady attention to order, and the great exertion and bravery shown by all my officers, seamen, and marines, in the action, many of whom I had sufficiently tried before on a similar occasion, (the capture of the *Insurgent*,) and all their names are recorded in the muster-roll I sent to the Secretary of the Navy, dated the 19th of December last, signed by myself.

THOMAS TRUXTUN.

THE NAVAL ESTABLISHMENT, AND ITS
EXPENSES.

[Communicated to the House of Reps., Jan. 15, 1801.]

NAVY DEPARTMENT, Jan. 12, 1801.

SIR: The report of the Secretary of the Treasury containing a statement of the appropriations necessary for the year 1801, includes the estimates of the expense of maintaining the Navy for the same year. It is unnecessary, therefore, for me to repeat them here.

But it will be observed that these estimates were formed on the idea of employing our whole force in cruising, as heretofore, for the protection of our commerce. Should the United States be so fortunate as to terminate, by an honorable treaty, the differences with France, it would be good economy to sell all the public vessels, except the following frigates:

The United States,	The New York,
President,	Constellation,
Constitution;	Congress,
Chesapeake,	Essex,
Philadelphia,	Boston,
John Adams,	Adams, and
General Greene.	

The rest were either built of materials which do not promise long duration, or are too small to form a part of the national defence. In future

wars, the United States will probably be influenced by the example of all other nations, to suffer the capture of vessels merely commercial from their enemy; and, in this event, the enterprising spirit of our citizens will quickly furnish, for private emolument, nearly all the small vessels necessary to be employed; and will thus add to the national means of annoyance, without adding to the national expense. In this view, it may be sufficient for the United States to attend principally to a provision for ships of the line and frigates.

The expense of maintaining the thirteen frigates herein enumerated, in constant service, and on the present establishment of numbers, pay, and rations, would amount, annually, to the sum of one million two hundred and twenty-five thousand and forty-eight dollars and seventy-three cents, as will be seen in paper No. 1. But, on a peace establishment, the ration, which is too large, ought to be reduced; seamen's wages will undoubtedly fall, on a general peace; and, in such a state of things, it would be unnecessary to employ, in each ship, more than two-thirds of the present number of able and ordinary seamen. The paper No. 2 contains an estimate of the annual expense of these ships on a peace establishment, and on the principle of keeping the whole of them in constant service, amounting to seven hundred and twelve thousand seven hundred and twenty-four dollars and thirty-five cents. The paper, No. 3, shows the expense of keeping only six of the frigates in constant service; the others remaining in port, but allowing half-pay to a sufficient number of commissioned officers and midshipmen for the ships so laid up, amounting to three hundred and eighty-seven thousand two hundred and fifty-seven dollars. In the paper, No. 4, there is added to the estimate, No. 3, the expense of allowing half-pay to all the commissioned officers and midshipmen at present in the service, making the whole amount to the annual sum of four hundred and forty-four thousand six hundred and seventy-seven dollars.

The act establishing and organizing the Marine Corps considers that corps as part of the Military Establishment, but subject to perform duty on ship-board, as well as in posts and garrisons on the seacoast, and elsewhere on shore. It is questionable, therefore, whether the expense of this corps ought to be provided for in the estimates of the War or the Navy Department. It is certainly, one of the most useful corps belonging to the United States; and is particularly advantageous in facilitating the means, and lessening the expense, of manning our ships; and affords to every vessel a body of experienced and disciplined men, always prepared for action. The war expense of this corps is two hundred and seventy thousand nine hundred and fifty-seven dollars and ninety-eight cents, per annum; in peace, the expense might be reduced to two hundred and seven thousand three hundred and ten dollars, per estimate No. 5, which, being added to the estimate No. 4, would make the whole amount to six hundred and fifty-one thousand nine hundred and eighty-seven dollars.

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The acts of Congress have appropriated one million of dollars towards building six seventy-four gun ships, and for procuring, arming, &c., six sloops of war, leaving about seven hundred thousand dollars to be applied towards the six seventy-four gun ships; also, two hundred thousand dollars for the purchase of growing or other timber, or of timbered lands, for the Navy, and for preparing proper places for securing the timber procured; and fifty thousand dollars for the erection of two docks, for repairing the public ships.

Under these acts, contracts have been made for eight frames for seventy-four gun ships; two of them under the appropriation of two hundred thousand dollars, and the execution of them, as far as six frames, will, it is believed, be completed this Winter. A considerable part of the other timber, necessary for six ships, has been procured. Ground has been purchased at Portsmouth, New Hampshire, Charlestown, (near Boston,) Philadelphia, the City of Washington, and Norfolk; and measures have been taken to procure ground at New York, for capacious buildings and dock-yards; and progress is making in preparing docks for receiving the timber, and wharves for building the ships. Contracts have also been made for cannon, and for the copper bolts and spikes, and for sheathing copper, for the seventy-four gun ships; but it is impossible to say how far those which respect copper will be executed, the works for manufacturing sheathing copper being very expensive, and, it is to be feared, beyond the reach of individual capital and enterprise.

The sums already advanced and expended on these different objects cannot be precisely ascertained; but they are not materially different from the following estimate:

For ground and improvements	\$186,800 00
Timber	210,070 00
Copper purchased, and advances on contracts for sheathing copper	76,913 00
Cannon	33,000 00
Purchase of Grover's Island and Black Beard	22,516 75
	<u>\$929,299 75</u>

The agents for disbursing this money are also agents for all other purposes of the Navy; and it can only be seen what has been expended, under each head of appropriation, on settlement of their accounts. To remit money to them under each head of appropriation, allowing them to expend on that particular object only the sum remitted, would be to create the necessity of keeping, in each agent's hands, four or five times as much public money as necessary; hence, the practice has arisen in the Navy Department of drawing on one appropriation, for all Navy purposes, until that appropriation is exhausted; leaving until the settlement of the agent's accounts the charges against each appropriation for which the money has been expended.

The expense of building six seventy-four gun ships, and fitting them for sea, with guns and military stores, and every other article except men

and provisions, has heretofore been estimated at two millions four hundred and three thousand eight hundred dollars and ninety-four cents; to complete the wharves and docks, for seasoning timber at the six places, where ground has been purchased, and to erect suitable houses, for the reception of public stores, will cost, including what has already been expended, six hundred thousand dollars; and to make, at two of these places, proper docks for repairing of ships, may cost one hundred thousand dollars, amounting, in the whole, to - - - - - \$3,103,800 00

From which is to be deducted the sums already expended - - - 529,299 75

Leaving a balance still to be appropriated, of - - - - - \$2,574,500 25

If this balance should be divided into four equal parts, and one part should be appropriated in the present, and one in each of the three succeeding years, the money will be furnished as fast as it will be proper to build the ships, to give them every chance of long duration.

The timber alone of a seventy-four gun ship will cost, delivered at the ship yard:

For the frame, consisting of twenty-seven thousand three hundred and eighty-seven cubic feet, If of live oak, cut to the moulds	\$54,774 00
If partly of live oak, or other timber as valuable, and partly of white oak	41,080 00
If of white oak alone	\$27,387 00
All the other timber	40,000 00
	<u>67,387 00</u>

All the timber for a frigate, to mount forty-four guns, has been estimated to cost fifty thousand dollars.

It will be impracticable to get more live oak from Georgia, after the frames already contracted for are completed, except from the islands belonging to the United States, and these are too small to furnish more than a few of the most material pieces for many ships. It will, also, soon be impracticable to obtain, in the United States, any other kind of timber superior to white oak; but there is reason to believe that, when our timber is as well seasoned, our white oak ships will last as long as those of most other countries. The experiment has never yet been fairly made.

When the United States own twelve ships of seventy-four guns, and double the number of strong frigates, and it is known that they possess the means of increasing, with facility, their naval strength, confidence may be indulged that we may then avoid those wars in which we have no interest, and without submitting to be plundered. An annual sum of one hundred and seventeen thousand three hundred and eighty-seven dollars, (over and above the appropriation for the six seventy-four gun ships already authorized,) for the purchase of timber, to be laid up in docks for seventy-four gun ships and frigates, and the adoption of efficient arrangements to secure the manufacture of copper, the culture of hemp, and the manufac-

Naval Establishment and its Expenses.

ture of canvass, would, in a few years, raise us to this desirable state of security.

Thus, then, it appears that, for the small sum of six hundred and fifty-one thousand nine hundred and eighty-seven dollars thirty-four cents, the United States may keep in constant service six frigates; seven others in port, but always ready for service; the corps of marines, consisting of more than eleven hundred officers and men; and may remunerate the past, and secure the future, services of a meritorious class of men, who, in general, either sacrificed more profitable and less hazardous private employment, to devote themselves to their country, in a season of peril; or who, being qualified by education for any pursuits, have entered into the Navy, as a profession, at that time of life when professions are usually chosen.

All great maritime nations retain in peace the commissioned Navy officers necessary to be employed in war, by allowing them a portion of their monthly pay, on the condition of their holding themselves in readiness, at all times, to be called into active service. The same provision is not so generally extended to the midshipmen; but the discrimination is no where just, and, in the United States, in the present instance, it would be extremely impolitic: for the midshipmen are among the most promising young men of our country, possess all the materials to make officers equal to any in the world, and well merit the fostering care of their Government. But it would be injurious to themselves and to their country to pay them for remaining in idleness at home. No midshipman ought to receive half-pay, without exhibiting satisfactory proof that at least four months of the year for which he demanded it had been employed by him in acquiring a better knowledge of his profession; if not in foreign service, at least in the merchant ships of his own country.

It also appears that, for the further sum of six hundred and forty-three thousand six hundred and twenty-five dollars and six cents, appropriated for the present, and for each of the three succeeding years, six seventy-four gun ships may be added to the Navy; two frames for two other seventy-four gun ships may be placed in dock for seasoning; six capacious building yards, with docks for receiving large quantities of timber, may be prepared; and suitable houses, which are indispensable for the security of the naval stores, may be erected at each of the building yards.

And that, for the further appropriation of one

hundred and seventeen thousand three hundred and eighty-seven dollars, for the timber of a seventy-four and a forty-four gun ship, to be repeated annually, until an adequate quantity of timber shall be obtained, the United States may acquire the means of suddenly raising their Navy to any size which the exigency of their affairs may demand.

It will require years to cut the timber from the woods and to build a ship of seventy-four guns, and, after she is built, of green timber, she will not last longer than the time consumed in building her. A ship of the same size, besides the immense advantage in point of duration, may be built and sent to sea in less than a year, if all the materials are on the spot. Timber may be preserved for ages in docks, and at little expense; and the knowledge that we possess it in that state will inspire nearly as much respect for our flag, as if the ships were built and on the ocean.

In a pecuniary point of view, there can be no comparison between the expense of creating a sufficient Navy, and the loss a commerce, so great as ours, will too certainly sustain for the want of such protection. But the loss of property is but a paltry consideration, compared with all the humiliating and destructive consequences which must flow from that debasement of mind which a system of eternal submission to injury and injustice cannot fail to produce.

Before I conclude, I will take the liberty of observing, that the business of the Navy Department embraces too many objects for the superintendence of one person, however gifted. The public interest, I am very sensible, has already suffered from this cause; and I have no doubt that the establishment of a Board, to consist of three or five experienced Navy officers, to superintend, in subordination to the Head of the Department, such parts of the duties as nautical men are best qualified to understand and to direct, would produce a saving to the public far beyond the expense of such an establishment. Their full pay as officers, indeed, and full rations, might be deemed sufficient compensation for such duty, as it would be proper that the members of the Board should retain their rank in the Navy.

I have the honor to be, with great respect, sir, your most obedient servant,

BEN. STODDERT.

HARRISON GRAY OTIS, Esq.,

Chairman of the Committee of Naval Affairs.

[The tabular statements are omitted.]

Acts of Congress.

SEC. 2. *And be it further enacted,* That any person imprisoned on process of execution issuing from any court of the United States in civil actions, except at the suit of the United States, may have the oath or affirmation, hereinafter expressed, administered to him by the judge of the district court of the United States, within whose jurisdiction the debtor may be confined; and in case there shall be no district judge residing within twenty miles of the jail wherein such debtor may be confined, such oath or affirmation may be administered by any two persons who may be commissioned for that purpose by the district judge: The creditor, his agent or attorney, if either live within one hundred miles of the place of imprisonment, or within the district in which the judgment was rendered, having had at least thirty days previous notice by a citation served on him, issued by the district judge, to appear at the time and place therein mentioned, if he see fit, to show cause why the said oath or affirmation should not be so administered: At which time and place, if no sufficient cause, in the opinion of the judge (or the commissioners appointed as aforesaid) be shown, or doth from examination appear to the contrary, he or they may, at the request of the debtor, proceed to administer to him the following oath or affirmation, as the case may be, viz. "You ——— solemnly swear (or affirm) that you have no estate, real or personal, in possession, reversion, or remainder, to the amount or value of thirty dollars, other than necessary wearing apparel; and that you have not directly or indirectly, given, sold, leased, or otherwise conveyed to, or intrusted any person or persons with all or any part of the estate, real or personal, whereof you have been the lawful owner or possessor, with any intent to secure the same, or to receive or expect any profit or advantage therefrom, or to defraud your creditors, or have caused or suffered to be done anything else whatsoever, whereby any of your creditors may be defrauded." Which oath or affirmation being administered, the judge or commissioners shall certify the same under his or their hands to the prison-keeper, and the debtor shall be discharged from his imprisonment on such judgment, and shall not be liable to be imprisoned again for the said debt, but the judgment shall remain good and sufficient in law, and may be satisfied out of any estate which may then, or at any time afterwards, belong to the debtor. And the judge or commissioners, in addition to the certificate by them made and delivered to the prison-keeper, shall make return of their doings to the district court, with the commission, in cases where a commission has been issued, to be kept upon the files and record of the same court. And the said judge, or commissioners, may send for books and papers, and have the same authority as a court of record, to compel the appearance of witnesses, and administer to them, as well as to the debtor, the oaths or affirmations necessary for the inquiry into, and discovery of the true state of the debtor's property, transactions and affairs.

SEC. 3. *And be it further enacted,* That when the examination and proceedings aforesaid, in the

opinion of the said judge or commissioners, cannot be had with safety or convenience in the prison wherein the debtor is confined, it shall be lawful for him or them, by warrant under his or their hand and seals, to order the marshal or prison-keeper, to remove the debtor to such other place, convenient and near to the prison, as he or they may see fit; and to remand the debtor to the same prison, if, upon examination or cause shown by the creditor, it shall appear that the debtor ought not to be admitted to take the above recited oath or affirmation, or that he is holden for any other cause.

SEC. 4. *And be it further enacted,* That if any person shall falsely take any oath or affirmation, authorized by this act, such person shall be deemed guilty of perjury, and, upon conviction thereof, shall suffer the pains and penalties in that case provided: and, in case any false oath or affirmation be so taken by the debtor, the court, upon the motion of the creditor, shall recommit the debtor to the prison from whence he was liberated, there to be detained for the said debt, in the same manner as if such oath or affirmation had not been taken.

SEC. 5. *And be it further enacted,* That any person imprisoned upon process issuing from any court of the United States, except at the suit of the United States, in any civil action, against whom judgment has been or shall be recovered, shall be entitled to the privileges and relief provided by this act, after the expiration of thirty days from the time such judgment has been or shall be recovered, though the creditor should not, within that time, sue out his execution, and charge the debtor therewith.

Approved, January 6, 1800.

An Act for the preservation of peace with the Indian tribes.

Be it enacted, &c., That if any citizen or other person residing within the United States, or the territory thereof, shall send any talk, speech, message, or letter, to any Indian nation, tribe, or chief, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquillity of the United States, he shall forfeit a sum not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SEC. 2. *And be it further enacted,* That if any citizen or other person shall carry or deliver any such talk, speech, message, or letter, to or from any Indian nation, tribe, or chief, from or to any person or persons whatsoever, residing within the United States, or from or to any subject, citizen, or agent of any foreign Power or State, knowing the contents thereof, he shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

SEC. 3. *And be it further enacted,* That if any citizen or other person, residing or being among the Indians, or elsewhere within the territory of the United States, shall carry on a correspondence, by letter or otherwise, with any foreign nation or power, with an intent to induce such foreign nation or power, to excite any Indian nation, tribe,

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or chief, to war against the United States, or to the violation of any existing treaty; or in case any citizen or other person shall alienate, or attempt to alienate, the confidence of the Indians from the Government of the United States, or from any such person or persons as are or may be employed and intrusted by the President of the United States as a commissioner or commissioners, agent or agents, or in any capacity whatever, for facilitating or preserving a friendly intercourse with the Indians, or for managing the concerns of the United States with them, he shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

SEC. 4. *And be it further enacted*, That the provisions of the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," passed the third day of March, one thousand seven hundred and ninety-nine, be, and the same are hereby extended to carry into effect this act, and for the trial and punishment of offences against it, in the same manner as if they were herein specially recited.

SEC. 5. *And be it further enacted*, That this act shall continue and be in force until the third day of March, in the year one thousand eight hundred and two, and no longer.

Approved, January 17, 1800.

An Act to repeal part of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned, and to continue in force the residue of the same."

Be it enacted, &c., That the fourth section of an act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed on the third day of March, one thousand seven hundred and ninety-seven, shall be, and the same is hereby repealed, and the residue of the said act shall be, and the same is hereby, continued in full force without limitation of time.

Approved, February 11, 1800.

An Act giving further time to the holders of military warrants, to register and locate the same.

Be it enacted, &c., That the Secretary of the Treasury shall, for the space of fourteen days after the expiration of the nine months heretofore allowed for that purpose, by the act, entitled "An act regulating the grants of land, appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," register warrants for military services in the form and manner as is prescribed by the said recited act; and the priority of location of said warrants, and the warrants registered under the said recited act, shall be determined by lot, immediately after the expiration of the said fourteen days, and a day for the location shall be fixed by the Secretary of the Treasury, in a public notice given in one of the gazettes of the city of Philadelphia.

Approved, February 11, 1800.

An Act to suspend in part, an act, entitled "An act to augment the army of the United States; and for other purposes."

Be it enacted, &c., That all further enlistments under the second section of an act, entitled "An act to augment the army of the United States, and for other purposes," shall be suspended until the further order of Congress, unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war shall break out between the United States and the French Republic, or imminent danger of invasion of their territory by the said Republic, shall, in the opinion of the President of the United States, be discovered to exist.

Approved, February 20, 1800.

An Act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof.

Be it enacted, &c., That all commercial intercourse between any persons resident within the United States or under their protection, and any person or persons resident within the territories of the French Republic, or any of the dependencies thereof, shall be, and, from and after the second day of March next, is hereby prohibited and farther suspended, excepting only in the cases hereinafter provided. And any ship or vessel, owned, hired, or employed, wholly or in part, by any person or persons resident within the United States, or any citizen or citizens thereof resident elsewhere, and sailing therefrom after that day, which, contrary to the intent hereof, shall be voluntarily carried, or shall be destined or permitted to proceed, or shall be sold, bartered, intrusted, or transferred, for the purpose that she may proceed, whether directly or from any intermediate port or place within the territories of that Republic, or any of the dependencies thereof; or shall be engaged in any traffic or commerce, by or for any person resident within the territories of that Republic, or within any of the dependencies thereof; and also any cargo which shall be found on board such ship or vessel, when detected and interrupted in such unlawful purpose, or at her return from such voyage to the United States, shall be wholly forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction.

SEC. 2. *And be it further enacted*, That excepting for foreign ships or vessels owned, hired, and employed by persons permanently residing in Europe, and commanded and wholly navigated by foreigners, no clearance for a foreign voyage shall be granted to any ship or vessel whatever, until the owner or employer for the voyage, or if not resident within the district where the clearance shall be required, his factor or agent, with the master and one or more sufficient surety or sureties to the satisfaction of the collector of the district, shall give bond to the United States, such owner, employer, or factor, with the master, in a sum equal to the value of the vessel, and of one-third of her cargo; and such surety or sureties in a like

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sum, when it shall not exceed ten thousand dollars; and if it shall exceed, then in that sum, with condition that the ship or vessel for which a clearance shall be required, is actually destined, and shall proceed to some port or place without the limits or jurisdiction of the French Republic, or any of the dependencies thereof, and during the intended voyage shall not be voluntarily carried, or permitted to proceed or sold, intrusted or transferred, with the purpose that she may proceed, whether directly or from any intermediate port or place, to any port or place within the territories of that Republic, or any of the dependencies thereof; and shall not, at any such port or place, voluntarily deliver or unlade any part of such cargo; and, if compelled by distress of weather, or taken by force into any such port or place, will not there receive on board of such ship or vessel, any goods, produce, or merchandise, other than necessary sea-stores; and generally, that such ship or vessel shall not be employed in any traffic or commerce, with or for any person resident within the territory of the French Republic, or any of the dependencies thereof.

SEC. 3. *Provided, and be it further enacted,* That when any ship or vessel which shall obtain a clearance for a foreign voyage, after a bond shall be given as aforesaid, shall be compelled by distress of weather, or other casualty endangering the safety of such ship or vessel, or of the mariners on board the same, or shall be taken by any armed vessel, or other superior force, into any port or place within the territories of the French Republic, or any of the dependencies thereof, and shall there necessarily unlade and deliver, or shall be deprived of any cargo then on board, then, and in such case, the master or other person having charge of such ship or vessel, may receive compensation or payment in bills of exchange, or in money or bullion, for such cargo, but not otherwise, and shall not be understood thereby to contravene this law, or to incur a forfeiture of the said bond.

SEC. 4. *And be it further enacted,* That no ship or vessel coming from any port or place within the territories of the French Republic, or any of the dependencies thereof, whether with or without a cargo, or from any other port or place, with a cargo on board obtained for, or laden on board of such vessel at any port or place within the said territories or dependencies, which shall arrive within the limits of the United States, after the second day of March next, shall be admitted to entry with the collector of any district; and each and every such ship or vessel which shall arrive as aforesaid, having on board any goods, wares, or merchandise, destined to be delivered within the United States, contrary to the intent of this act, or which shall have otherwise contravened the same, together with the cargo which shall be found on board, shall be forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction: *Provided,* That nothing herein contained shall be construed to prohibit the entry of any vessel having a passport granted under the authority of the French Republic, and solely employed for purposes of politi-

cal or national intercourse with the Government of the United States, and not in any commercial intercourse, and which shall be received, and permitted by the President of the United States to remain within the same: *And provided, also,* that until the first day of August next, and no longer, any ship or vessel, wholly owned or employed by a foreigner, other than any person resident in France, or in any of the dependencies of the French Republic, and which coming therefrom shall be destined to the United States, and shall arrive within the same, not having otherwise contravened this act, shall be required and permitted to depart therefrom; and in case she shall accordingly depart without any unreasonable delay, and without delivery, or attempting to deliver, any cargo or lading within the United States, such ship or vessel, or any cargo which may be on board the same, shall not be liable to the forfeiture aforesaid.

SEC. 5. *And be it further enacted,* That if any ship or vessel, coming from any port or place within the territories of the French Republic, or any of the dependencies thereof, or with any cargo there obtained on board, but not destined to any port or place within the United States, shall be compelled by distress of weather, or other necessity, to put into any port or place within the limits of the United States, such ship or vessel shall be there hospitably received in the manner prescribed by the act, entitled, "An act to regulate the collection of duties on imports and tonnage;" and shall be permitted to make such repairs, and to obtain such supplies, as shall be necessary to enable her to proceed according to her destination; and such repairs and supplies being obtained, shall be thereafter required and permitted to depart. But if such ship or vessel shall not conform to the regulations prescribed by the act last mentioned, or shall unlade any part of her cargo, or shall take on board any cargo or supplies whatever, without the permit of the collector of the district previously obtained therefor, or shall refuse, or unreasonably delay to depart from and out of the United States, after having received a written notice to depart, which such collector may, and shall give as soon as such ship or vessel shall be fit for sea; or having departed shall return to the United States, not being compelled thereto by further distress or necessity, in each and every such case, such ship or vessel and her cargo shall be forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction.

SEC. 6. *And be it further enacted,* That at any time after the passing of this act, it shall be lawful for the President of the United States, by his order, to remit and discontinue for the time being, whenever he shall deem it expedient, and for the interest of the United States, all, or any of the restraints and prohibitions imposed by this act, in respect to the territories of the French Republic, or to any island, port or place belonging to the said republic, with which in his opinion a commercial intercourse may be safely renewed; and also it shall be lawful for the President of the United States, whenever he shall afterwards deem

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it expedient, to revoke such order, and hereby to re-establish such restraints and prohibitions: And the President of the United States shall be, and he is hereby, authorized to make proclamation thereof accordingly.

SEC. 7. *And be it further enacted*, That the whole of the island of Hispaniola shall, for the purposes of this act, be considered as a dependency of the French Republic: *Provided*, That nothing herein contained shall be deemed to repeal or annul, in any part, the order or proclamation of the President of the United States, heretofore issued for permitting commercial, intercourse with certain ports of that island.

SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, to give instructions to the public armed vessels of the United States, to stop and examine any ship or vessel of the United States on the high sea, which there may be reason to suspect to be engaged in any traffic or commerce contrary to this act, and if, upon examination, it shall appear that such ship or vessel is bound or sailing to or from any port or place, contrary to the true intent and meaning of this act, it shall be the duty of the commander of such public armed vessel, to seize every ship or vessel engaged in such illicit commerce, and send the same to the nearest convenient port of the United States, to be there prosecuted in due course of law, and held liable to the penalties and forfeitures provided by this act.

SEC. 9. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, shall and may be examined, mitigated, and remitted, in like manner, and under the like conditions, regulations, and restrictions, as are prescribed, authorized, and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned;" and all penalties and forfeitures, which may be recovered, in pursuance of this act, in consequence of any seizure made by the commander of any public armed vessel of the United States, shall be distributed according to the rules prescribed by the act, entitled "An act for the government of the navy of the United States;" and all other penalties arising under this act, and which may be recovered, shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage."

SEC. 10. *And be it further enacted*, That nothing contained in this act shall extend to any ship or vessel to which the President of the United States shall grant a permission to enter and clear; provided such ship or vessel shall be solely employed, pursuant to such permission, for purposes of national intercourse; and shall not be permitted to proceed with, or to bring to the United States, any cargo or lading whatever, other than necessary sea-stores.

SEC. 11. *And be it further enacted*, That the act entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," shall

be, and is hereby continued, and shall be taken to be in force in respect to all offences, which shall have been committed against the same, before the expiration thereof; and to the intent that all seizures, forfeitures, and penalties, arising upon such offences, may be had, sued for, prosecuted, and recovered, any limitation of the said act to the contrary hereof notwithstanding.

SEC. 12. *And be it further enacted*, That this act shall be and remain in force until the third day of March, one thousand eight hundred and one: *Provided, however*, the expiration thereof shall not prevent or defeat any seizure, or prosecution for a forfeiture, incurred under this act, and during the continuance thereof.

Approved, February 27, 1800.

An Act providing for the second Census or enumeration of the inhabitants of the United States.

Be it enacted, &c., That the marshals of the several districts of the United States and the secretaries of the Territory of the United States Northwest of the river Ohio, and of the Mississippi Territory, respectively, shall be, and they are hereby authorized and required, under the direction of the Secretary of State, and according to such instructions as he shall give pursuant to this act, to cause the number of the inhabitants within their respective districts and territories to be taken; omitting in such enumeration Indians not taxed, and distinguishing free persons, including those bound to service for a term of years from all others; distinguishing also the sexes, and colors of free persons, and the free males under ten years of age; those of ten years and under sixteen, those of sixteen and under twenty-six, those of twenty-six and under forty-five, those of forty-five and upwards. And distinguishing free females under ten years of age, those of ten years and under sixteen, those of sixteen and under twenty-six, those of twenty-six and under forty-five, those of forty-five and upwards; for effecting which purpose, the marshals and secretaries aforesaid shall have power to appoint as many assistants within their respective districts and territories, as aforesaid, as to them shall appear necessary; assigning to each assistant a certain division of his district or territory, which division shall consist of one or more counties, cities, towns, townships, hundreds, or parishes, or of a territory plainly and distinctly bounded by water courses, mountains, or public roads: The marshals or secretaries, as the case may be, and their assistants, shall, respectively, take an oath or affirmation, before some judge or justice of the peace, resident within their respective districts or territories, previous to their entering on the discharge of the duties by this act required. The oath or affirmation of the marshal or secretary shall be: "I, A. B. marshal of the district of —, (or secretary of the territory of —, as the case may be,) do solemnly swear or affirm, that I will well and truly cause to be made a just and perfect enumeration and description of all persons resident within my district or territory, and return the same to the Sec-

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retary of State, agreeably to the directions of an act of Congress, entitled 'An act providing for the enumeration of the inhabitants of the United States,' according to the best of my ability." The oath or affirmation of an assistant shall be: "I, A. B., do solemnly swear (or affirm) that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me by the marshal of the district of —, (or the secretary of the territory of —, as the case may be,) and make due return thereof to the said marshal, or secretary, agreeably to the directions of an act of Congress, entitled 'An act providing for the enumeration of the inhabitants of the United States,' according to the best of my abilities." The enumeration shall commence on the first Monday of August next, and shall close within nine calendar months thereafter. The several assistants shall, within the said nine months, transmit to the marshal or secretaries, by whom they shall be respectively appointed, accurate returns of all persons, except Indians, not taxed, within their respective divisions; which returns shall be made in a schedule, distinguishing in each county, parish, township, town or city, the several families, by the names of their master, mistress, steward, overseer, or other principal person therein, in the manner following, that is to say: The number of persons within my division, consisting of —, appears in a schedule hereto annexed, subscribed by me this — day of —, A. B. assistant to the marshal of — or to the secretary of —.

	Name of county, parish, township, town, or city, where the family resides.
	Name of head of family.
	Free white males under ten years of age.
	Free white males of ten and under sixteen.
	Free white males of sixteen and under twenty-six, including heads of families.
	Free white males of twenty-six and under forty-five including heads of families.
	Free white males of forty-five and upwards, including heads of families.
	Free white females under ten years of age.
	Free white females of ten years and under sixteen.
	Free white females of sixteen and under twenty-six, including heads of families.
	Free white females of twenty-six, and under forty-five, including heads of families.
	Free white females of forty-five and upwards, including heads of families.
	All other free persons, except Indians not taxed.
	Slaves.

Schedule of the whole number of persons in the division allotted to A. B.

king a false return of the enumeration to the marshal or secretary (as the case may be) within the time by this act limited, shall forfeit the sum of two hundred dollars.

SEC. 3. *And be it further enacted*, That the marshal and secretaries shall file the several returns aforesaid, with the clerks of their respective districts or superior courts, (as the case may be,) who are hereby directed to receive and carefully preserve the same. And the marshals or secretaries, respectively, shall, on or before the first day of September, one thousand eight hundred and one, transmit to the Secretary of State the aggregate amount of each description of persons within their respective districts or territories. And every marshal or secretary failing to file the returns of his assistants, or any of them, with the clerks of their respective courts as aforesaid, or failing to return the aggregate amount of each description of persons in their respective districts or territories, as the same shall appear, from said returns, to the Secretary of State, within the time limited by this act, shall, for every such offence, forfeit the sum of eight hundred dollars; all which forfeitures shall be recoverable in the courts of the districts or territories where the offences shall be committed, or in the circuit courts to be held within the same, by action of debt, information, or indictment; the one half thereof to the use of the United States, and the other half to the informer; but where the prosecution shall be first instituted on behalf of the United States, the whole shall accrue to their use. And for the more effectual discovery of offences, the judges of the several districts, and of the supreme courts, in the territories of the United States, as aforesaid, at their next sessions, to be held after the expiration of the time allowed for making the returns of the enumeration hereby directed, to the Secretary of State, shall give this act in charge to the grand juries, in their respective courts, and shall cause the returns of the several assistants to be laid before them for their inspection.

SEC. 4. *And be it further enacted*, That every assistant shall receive at the rate of one dollar for every hundred persons by him returned, where such persons reside in the country, and where such persons reside in a city or town containing more than three thousand persons, such assistant shall receive at the rate of one dollar for every three hundred persons, but where, from the dispersed situation of the inhabitants in some divisions, one dollar for every one hundred persons shall be insufficient, the marshal or secretaries, with the approbation of the judges of their respective districts or territories, may make such further allowance to the assistants in such divisions, as shall be deemed an adequate compensation: *Provided*, The same does not exceed one dollar for every fifty persons by them returned. The several marshals and secretaries shall receive as follows: The marshal of the district of Maine, two hundred dollars; the marshal of the district of New Hampshire, two hundred dollars; the marshal of the district of Massachusetts, three hundred dollars; the marshal of the district of

SEC. 2. *And be it further enacted*, That every assistant, failing to make a proper return, or, ma-

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Rhode Island, one hundred and fifty dollars; the marshal of the district of Connecticut, two hundred dollars; the marshal of the district of Vermont, two hundred dollars; the marshal of the district of New York, three hundred dollars; the marshal of the district of New Jersey, two hundred dollars; the marshal of the district of Pennsylvania, three hundred dollars; the marshal of the district of Delaware, one hundred dollars; the marshal of the district of Maryland, three hundred dollars; the marshal of the district of Virginia, five hundred dollars; the marshal of the district of Kentucky, two hundred and fifty dollars; the marshal of the district of North Carolina, three hundred and fifty dollars; the marshal of the district of South Carolina, three hundred dollars; the marshal of the district of Georgia, two hundred and fifty dollars; the marshal of the district of Tennessee, two hundred dollars; the secretary of the Territory of the United States Northwest of the Ohio, two hundred dollars; the secretary of the Mississippi Territory, one hundred dollars.

SEC. 5. *And be it further enacted*, That every person whose usual place of abode shall be in any family on the aforesaid first Monday in August next, shall be returned as of such family, and the name of every person who shall be an inhabitant of any district or territory, but without a settled place of residence, shall be inserted in the column of the aforesaid schedule, which is allotted for the heads of families in that division where he or she shall be, on the said first Monday in August next, and every person occasionally absent at the time of the enumeration, as belonging to that place in which he or she usually resides in the United States.

SEC. 6. *And be it further enacted*, That each and every free person, more than sixteen years of age, whether heads of families or not, belonging to any family, within any division, district, or territory made or established within the United States, shall be, and hereby is, obliged to render to such assistant of the division, a true account, if required, to the best of his or her knowledge, of all and every person belonging to such family, respectively, according to the several descriptions aforesaid, on pain of forfeiting twenty dollars, to be sued for and recovered by such assistant, the one half for his own use, and the other half to the use of the United States.

SEC. 7. *And be it further enacted*, That each assistant shall, previous to making his returns to the marshal or secretary, (as the case may be,) cause a correct copy, signed by himself, of the schedule containing the number of inhabitants within his division, to be set up at two of the most public places within the same, there to remain for the inspection of all concerned, for each of which copies the said assistant shall be entitled to receive two dollars; provided, proof of the schedule having been so set up and suffered to remain, shall be transmitted to the marshal or secretary, (as the case may be,) with the return of the number of the persons; and in case any assistant shall fail to make such proof to the mar-

shal or secretary, as aforesaid, he shall forfeit the compensation by this act allowed him.

SEC. 8. *And be it further enacted*, That the Secretary of State shall be, and hereby is, authorized and required to transmit to the marshals of the several States, and to the secretaries aforesaid, regulations and instructions pursuant to this act, for carrying the same into effect; and, also, the forms contained therein of schedule to be returned, and proper interrogatories to be administered by the several persons who shall be employed therein.

Approved, February 28, 1800.

An Act in addition to an act, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen."

Be it enacted, &c., That the respective points of intersection of the lines actually run, as the boundaries of the several townships surveyed by virtue of the act entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," accordingly as the said lines have been marked and ascertained at the time when the same were run, notwithstanding the same are not in conformity to the act aforesaid, or shall not appear to correspond with the plat of the survey which has been returned by the surveyor general, shall be considered, and they are hereby declared, to be the corners of the said townships; that, in regard to every such township as by the plat and survey returned by the surveyor general is stated to contain four thousand acres in each quarter thereof, the points on each of the boundary lines of such township, which are at equal distance from those two corners of the same township, which stand on the same boundary line, shall be considered, and they are hereby declared, to be corners of the respective quarters of such township; that the other boundary lines of the said quarter townships shall be straight lines, run from each of the last-mentioned corners of quarter townships to the corner of quarter townships on the opposite boundary line of the same township; and that in regard to every such township as by the said return is stated to contain, in any of the quarters thereof, more or less than the quantity of four thousand acres, the corners marked in the boundary lines of such township to designate the quarters thereof, shall be considered, and they are hereby declared, to be the corners of the quarter townships thereof, although the same may be found at unequal distances from the respective corners of such townships. And such townships shall be divided by running lines through the same from the corners of the quarter townships actually marked, whether the interior lines thus extended shall be parallel to the exterior lines of the said township or not; and that each of the said quarter townships thus bounded, shall, in every proceeding to be had under the above-mentioned or this act, be considered as containing the exact quantity expressed in the

plat and survey thereof returned by the surveyor general.

SEC. 2. *And be it further enacted*, That it shall be lawful for the proprietors or holders of warrants for military services, which have been, or shall be, registered at the Treasury, in pursuance of the act entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," during the time, in the manner, and according to the rights of priority, which may be acquired in pursuance of said act, to locate the quantities of land mentioned in the warrants by them, respectively, registered, as aforesaid, on any quarter township or fractional part of a quarter township, in the general tract mentioned and described in said act: *Provided, always*, That the fractional quarter townships upon the river Sciota and those upon the river Muskingum, adjoining the grant made to Ebenezer Zane, or the towns Salem, Gnadenhutten, or Shoenbrun, or the Indian boundary line, shall in every case be accepted and taken in full satisfaction for four thousand acres.

SEC. 3. *And be it further enacted*, That whenever locations shall be made on any quarter township, which, according to the actual survey and plat thereof, returned by the surveyor general, is stated to contain less than the quantity of four thousand acres, except in the case of fractions provided for in the preceding section, it shall be lawful for the Secretary of the Treasury to issue, or cause to be issued, certificates expressing the number of acres remaining unsatisfied of any registry of warrants for the quantity of four thousand acres, made in pursuance of the act before recited, which certificates shall have the same validity and effect, and be liable to be barred in like manner as warrants granted for military services, but no certificate shall be granted, nor any claim allowed for less than fifty acres, nor for the navigable water contained within the limits of any quarter township or fractional quarter township.

SEC. 4. *And be it further enacted*, That whenever a location shall be made on any quarter township, which, according to the actual survey and plat thereof, returned by the surveyor general, is stated to exceed the quantity of four thousand acres, no patent shall be issued in pursuance thereof, until the person making such location shall deposit at the Treasury warrants for military services, or certificates issued by virtue of the preceding section, equal to the excess above four thousand acres, contained in such quarter township, or shall pay into the Treasury of the United States two dollars per acre, in the certificates of the six per cent. funded debt of the United States, or money, for each acre of the excess above four thousand acres as aforesaid.

SEC. 5. *And be it further enacted*, That after the priority of location shall have been determined, and after the proprietors or holders of warrants for military services shall have designated the tracts by them respectively elected, it shall be the duty of the Secretary of the Treasury to designate by lot, in the presence of the Secretary of

War, fifty quarter townships, of the lands remaining unlocated, which quarter townships, together with the fractional parts of townships remaining unlocated, shall be reserved for satisfying warrants granted to individuals for their military services, in the manner hereafter provided.

SEC. 6. *And be it further enacted*, That the land in each of the quarter townships designated as aforesaid, and in such of the fractional parts of quarter townships, as may then remain unlocated, shall be divided by the Secretary of the Treasury, upon the respective plats thereof, as returned by the surveyor general, into as many lots, of one hundred acres each, as shall be equal, as nearly as may be, to the quantity such quarter township or fraction is stated to contain; each of which lots shall be included, where practicable, between parallel lines, one hundred and sixty perches in length, and one hundred perches in width, and shall be designated, by progressive numbers, upon the plat or survey of every such quarter township and fraction respectively.

SEC. 7. *And be it further enacted*, That, from and after the sixteenth day of March, it shall be lawful for the holder of any warrant granted for military services, to locate at any time before the first day of January, one thousand eight hundred and two, the number of hundred acres expressed in such warrant, on any lot or lots, from time to time, remaining unlocated within the tracts reserved as aforesaid, and upon surrendering such warrant to the Treasury, the holder thereof shall be entitled to receive a patent, in the manner and upon the conditions heretofore prescribed by law; which patent shall, in every case, express the range, township, quarter township, or fraction, and number of the lot located as aforesaid; but no location shall be allowed, nor shall any patent be issued for any lot or lots of one hundred acres, except in the name of the person originally entitled to such warrant, or the heir or heirs of the person so entitled; nor shall any land so located and patented to a person originally entitled to such warrant, be considered as in trust for any purchaser, or be subject to any contract made before the date of such patent, and the title to lands acquired, in consequence of patents issued as aforesaid, shall and may be alienated in pursuance of the laws, which have been, or shall be, passed in the Territory of the United States Northwest of the river Ohio, for regulating the transfer of real property, and not otherwise.

SEC. 8. *And be it further enacted*, That in all cases, after the sixteenth of March next, where more than one application is made for the same tract, at the same time, under this act, or under the act to which this is in addition, the Secretary of the Treasury shall determine the priority of location by lot.

SEC. 9. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to advertise the tracts which may be reserved for location, in lots of one hundred acres, in one newspaper in each of the States, and in the territory aforesaid, for and during the term of three months.

SEC. 10. *And be it further enacted*, That the

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actual plat and survey, returned by the surveyor general, of quarter townships, and fractional parts of quarter townships, contained in the tract mentioned and described in the act to which this is a supplement, shall be considered as final and conclusive, so far as relates to the quantity of land supposed to be contained in the quarter townships and fractions, so that no claim shall hereafter be set up against the United States by any proprietor or holder of warrants for military services, on account of any deficiency in the quantity of land contained in the quarter township, or fractional part of a quarter township, which shall have been located by such proprietor or holder, nor shall any claim be hereafter set up by the United States against such proprietor or holder on account of any excess in the quantity of land contained therein.

Approved, March 1, 1800.

An Act providing for salvage in cases of recapture.

Be it enacted, &c., That when any vessel other than a vessel of war or privateer, or when any goods which shall hereafter be taken as prize by any vessel, acting under authority from the Government of the United States, shall appear to have before belonged to any person or persons, resident within or under the protection of the United States, and to have been taken by an enemy of the United States, or under authority, or pretence of authority, from any Prince, Government, or State, against which the United States have authorized, or shall authorize defence or reprisals, such vessel or goods not having been condemned as prize by competent authority before the recapture thereof, the same shall be restored to the former owner or owners thereof, he or they paying for and in lieu of salvage, if retaken by a public vessel of the United States, one-eighth part, and if retaken by a private vessel of the United States, one-sixth part of the true value of the vessel or goods so to be restored, allowing and excepting all imposts and public duties to which the same may be liable. And if the vessel so retaken shall appear to have been set forth and armed as a vessel of war, before such capture or afterwards, and before the retaking thereof as aforesaid, the former owner or owners, on the restoration thereof, shall be adjudged to pay, for and in lieu of salvage, one moiety of the true value of such vessel of war or privateer.

SEC. 2. *And be it further enacted,* That when any vessel or goods, which shall hereafter be taken as prize, by any vessel acting under authority from the Government of the United States, shall appear to have before belonged to the United States, and to have been taken by an enemy of the United States, or under authority, or pretence of authority, from any Prince, Government, or State, against which the United States have authorized, or shall authorize defence or reprisals, such public vessel not having been condemned as prize by competent authority before the recapture thereof, the same shall be restored to the United States. And for and in lieu of salvage, there shall be paid

from the Treasury of the United States, pursuant to the final decree which shall be made in such case by any court of the United States, having competent jurisdiction thereof, to the parties who shall be thereby entitled to receive the same, for the recapture as aforesaid, of an unarmed vessel, or any goods therein, one-sixth part of the true value thereof, when made by a private vessel of the United States, and one-twelfth part of such value when the recapture shall be made by a public armed vessel of the United States; and for the recapture as aforesaid of a public armed vessel, or any goods therein, one moiety of the true value thereof, when made by a private vessel of the United States, and one-fourth part of such value, when such recapture shall be made by a public armed vessel of the United States.

SEC. 3. *And be it further enacted,* That when any vessel or goods which shall be taken as prize as aforesaid, shall appear to have belonged to any person or persons permanently resident within the territory, and under the protection of any foreign Prince, Government, or State, in amity with the United States, and to have been taken by an enemy of the United States, or by authority or pretence of authority from any Prince, Government, or State, against which the United States have authorized, or shall authorize, defence or reprisals, then such vessel or goods shall be adjudged to be restored to the former owner or owners thereof, he or they paying, for and in lieu of salvage, such proportion of the true value of the vessel or goods so to be restored, as by the law or usage of such Prince, Government, or State, within whose territory such former owner or owners shall be so resident, shall be required on the restoration of any vessel or goods of a citizen of the United States, under like circumstances of recapture, made by the authority of such foreign Prince, Government, or State; and where no such law or usage shall be known, the same salvage shall be allowed as is provided by the first section of this act: *Provided,* That no such vessel or goods shall be adjudged to be restored to such former owner or owners, in any case where the same shall have been, before the recapture thereof, condemned as prize by competent authority, nor in any case whereby the law or usage of the Prince, Government, or State, within whose territory such former owner or owners shall be resident as aforesaid, the vessel or goods of a citizen of the United States, under like circumstances of recapture, would not be restored to such citizen of the United States: *Provided, also,* That nothing herein shall be construed to contravene or alter the terms of restoration in cases of recapture, which are or shall be agreed on in any treaty between the United States and any foreign Prince, Government, or State.

SEC. 4. *And be it further enacted,* That all sums of money which may be paid for salvage, as aforesaid, when accruing to any public armed vessel, shall be divided to and among the commanders, officers, and crew thereof, in such proportions as are or may be provided by law, respecting the distribution of prize money: And when accruing to

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any private armed vessel, shall be distributed to and among the owners and company concerned in such recapture according to their agreements, if any such there be; and in case there be no such agreement, then to and among such persons, and in such proportions, as the court having jurisdiction thereof shall appoint.

SEC. 5. *And be it further enacted*, That such parts of any acts of Congress of the United States, as respect the salvage to be allowed in cases of recapture, shall be, and are hereby, repealed, except as to cases of recapture made before the passing of this act.

Approved, March 3, 1800.

An Act declaring the assent of Congress to certain acts of the States of Maryland and Georgia.

Be it enacted, &c., That the consent of Congress be, and hereby is, granted to the operation of an act of the General Assembly of the State of Maryland, passed on the twenty-sixth day of December, one thousand seven hundred and ninety-one, entitled "An act empowering the wardens of the port of Baltimore to levy and collect the duty therein mentioned," and also to so much of an act of the State of Georgia, passed February the tenth, one thousand seven hundred and eighty-seven, entitled "An act for regulating the trade, laying duties on all goods, wares, liquors, merchandise, and negroes, imported into this State; and, also, an impost on the tonnage of shipping, and for other purposes therein mentioned," as authorizes a duty of three pence per ton on all shipping entering the port of Savannah, to be set apart as a fund for clearing the river Savannah.

SEC. 2. *And be it further enacted*, That this act shall be, and continue in force until the third day of March, one thousand eight hundred and eight, and no longer.

Approved, March 17, 1800.

An Act to alter the times of holding the District Court in North Carolina.

Be it enacted, &c., That the sessions of the district court for the district of North Carolina shall hereafter be holden on the first Monday in February, May, August, and November, annually.

SEC. 2. *And be it further enacted*, That all process which shall have been issued, and all recognizances returnable, and all suits and other proceeding, which have been continued to the said district court on the first Monday in April next, shall be returned and held continued to the said court on the first Monday of May next.

Approved, March 19, 1800.

An Act to extend the privilege of franking letters and packages to Martha Washington.

Be it enacted, &c., That all letters and packages to and from Martha Washington, relict of the late General George Washington, shall be received and conveyed by post free of postage, for and during her life.

Approved, April 3, 1800.

An Act to establish a uniform system of Bankruptcy throughout the United States.

Be it enacted, &c., That, from and after the first day of June next, if any merchant, or other person, residing within the United States, actually using the trade of merchandise, by buying and selling in gross, or by retail, or dealing in exchange, or as a banker, broker, factor, underwriter, or marine insurer, shall, with intent unlawfully to delay or defraud his or their creditors, depart from the State in which such person usually resides, or remain absent therefrom, or conceal him or herself therein, or keep his or her house, so that he or she cannot be taken, or served with process, or willingly or fraudulently procure him or herself to be arrested, or his or her lands, goods, money or chattels to be attached, sequestered, or taken in execution, or shall secretly convey his or her goods out of his or her house, or conceal them to prevent their being taken in execution, or make, or cause to be made, any fraudulent conveyance of his or her lands, or chattels, or make or admit any false or fraudulent security, or evidence of debt, or being arrested for debt, or having surrendered him or herself in discharge of bail, shall remain in prison two months, or more, or escape therefrom, or whose lands or effects being attached by process issuing out of, or returnable to, any court of common law, shall not, within two months after written notice thereof, enter special bail and dissolve the same, or in districts in which attachments are not dissolved by the entry of special bail, being arrested for debt after his or her lands and effects, or any part thereof, have been attached for a debt or debts amounting to one thousand dollars or upwards, shall not, upon notice of such attachment, give sufficient security for the payment of what may be recovered in the suit in which he or she shall be arrested, at or before the return day of the same, to be approved by the judge of the district, or some judge of the court out of which the process issued upon which he is arrested, or to which the same shall be returnable, every such person shall be deemed and adjudged a bankrupt: *Provided*, That no person shall be liable to a commission of bankruptcy, if the petition be not preferred, in manner hereinafter directed, within six months after the act of bankruptcy committed.

SEC. 2. *And be it further enacted*, That the judge of the district court of the United States, for the district where the debtor resides, or usually resided at the time of committing the act of bankruptcy, upon petition, in writing, against such person or persons being bankrupt, to him to be exhibited by any one creditor, or by a greater number, being partners, whose single debt shall amount to one thousand dollars, or by two creditors, whose debts shall amount to one thousand five hundred dollars, or by more than two creditors, whose debts shall amount to two thousand dollars, shall have power, by commission under his hand and seal, to appoint such good and substantial persons, being citizens of the United States, and resident in such district, as such judge shall deem proper, not exceeding three, to be commissioners of the said bankruptcy, and in case of vacancy or refusal to

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act, to appoint others, from time to time, as occasion may require: *Provided always*, That, before any commission shall issue, the creditor or creditors petitioning shall make affidavit or solemn affirmation, before the said judge, of the truth of his, her, or their debts, and give bond, to be taken by the said judge, in the name, and for the benefit of the said party so charged as a bankrupt, and in such penalty, and with such surety as he shall require, to be conditioned for the proving of his, her, or their debts, as well before the commissioners as upon a trial at law, in case the due issuing forth of the said commission shall be contested, and also for proving the party a bankrupt, and to proceed on such commission, in the manner herein prescribed. And if such debt shall not be really due, or after such commission taken out it cannot be proved that the party was a bankrupt, then the said judge shall, upon the petition of the party aggrieved, in case there be occasion, deliver such bond to the said party, who may sue thereon, and recover such damages, under the penalty of the same, as, upon trial at law, he shall make appear he has sustained, by reason of any breach of the condition thereof.

SEC. 3. *And be it further enacted*, That, before the commissioners shall be capable of acting, they shall respectively take and subscribe the following oath or affirmation, which shall be administered by the judge issuing the commission, or by any of the judges of the Supreme Court of the United States, or any judge, justice, or chancellor of any State court, and filed in the office of the clerk of the district court: "I, A B, do swear, or affirm, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me, as a commissioner in a commission of bankruptcy against —, and that without favor or affection, prejudice or malice." And the commissioners, who shall be sworn as aforesaid, shall proceed, as soon as may be, to execute the same; and, upon due examination, and sufficient cause appearing against the party charged, shall and may declare him or her to be a bankrupt: *Provided*, That before such examination be had, reasonable notice thereof, in writing, shall be delivered to the person charged as a bankrupt; or if he, or she, be not found at his or her usual place of abode, to some person of the family above the age of twelve years, or, if no such person appear, shall be fixed at the front or other public door of the house, in which he or she usually resides, and thereupon it shall be in the power of such person, so charged as aforesaid, to demand before, or at the time appointed for such examination, that a jury be empanelled to inquire into the fact or facts alleged as the causes for issuing the commission, and on such demand being made, the inquiry shall be had before the judge granting the commission, at such time as he may direct, and in that case such person shall not be declared bankrupt, unless, by the verdict of the jury, he or she shall be found to be within the description of this act, and shall be convicted of some one of the acts described in the first section of this act: *Provided, also*, That any

commission which shall be taken out as aforesaid, and which shall not be proceeded in as aforesaid, within thirty days thereafter, may be superseded by the said judge, who shall have granted the same, upon the application of the party thereby charged as a bankrupt, or of any creditor of such person, unless the delay shall have been unavoidable, or upon a just occasion.

SEC. 4. *And be it further enacted*, That the commissioners so to be appointed, shall have power forthwith, after they have declared such person a bankrupt, to cause to be apprehended, by warrant under their hands and seals, the body of such bankrupt, wheresoever to be found, within the United States: *Provided*, They shall think that there is reason to apprehend that the said bankrupt intends to abscond or conceal him or herself, and in case it be necessary, in order to take the body of the said bankrupt, shall have power to cause the doors of the dwelling-house of such bankrupt to be broken, or the doors of any other house in which he or she shall be found.

SEC. 5. *And be it further enacted*, That it shall be the duty of the commissioners so to be appointed, forthwith after they have declared such person a bankrupt, and they shall have power to take into their possession, all the estate, real and personal, of every nature and description, to which the said bankrupt may be entitled, either in law or equity, in any manner whatsoever, and cause the same to be inventoried and appraised to the best value, (his or her necessary wearing apparel, and the necessary wearing apparel of the wife and children, and necessary beds and bedding of such bankrupt, only excepted,) and, also, to take into their possession, and secure, all deeds and books of account, papers, and writings, belonging to such bankrupt; and shall cause the same to be safely kept, until assignees shall be chosen or appointed, in manner hereafter provided.

SEC. 6. *And be it further enacted*, That the said commissioners shall, forthwith after they have declared such person a bankrupt, cause due and sufficient public notice thereof to be given, and in such notice shall appoint some convenient time and place for the creditors to meet, in order to choose an assignee or assignees of the said bankrupt's estate and effects; at which meeting the said commissioners shall admit the creditors of such bankrupt to prove their debts; and where any creditor shall reside at a distance from the place of such meeting, shall allow the debt of such creditor to be proved by oath or affirmation, made before some competent authority, and duly certified, and shall permit any person duly authorized by letter of attorney from such creditor, due proof of the execution of such letter of attorney being first made, to vote in the choice of an assignee or assignees of such bankrupt's estate and effects, in the place and stead of such creditor: And the said commissioners shall assign, transfer, or deliver over, all and singular the said bankrupt's estate and effects aforesaid, with all muniments and evidences thereof, to such person or persons as the major part, in value, of such creditors, according to the several debts then proved, shall choose as

aforesaid: *Provided always*, That in such choice, no vote shall be given by, or in behalf of, any creditor whose debt shall not amount to two hundred dollars.

SEC. 7. *Provided always, and be it further enacted*, That it shall be lawful for the said commissioners, as often as they shall see cause, for the better preserving and securing the bankrupt's estate, before assignees shall be chosen as aforesaid, immediately to appoint one or more assignee or assignees of the estate and effects aforesaid, or any part thereof; which assignee or assignees aforesaid, or any of them, may be removed at the meeting of the creditors, so to be appointed as aforesaid, for the choice of assignees, if such creditors, entitled to vote as aforesaid, or the major part, in value, of them, shall think fit; and such assignee or assignees as shall be so removed, shall deliver up all the estate and effects of such bankrupt, which shall have come to his or their hands or possession, unto such other assignee or assignees as shall be chosen by the creditors as aforesaid; and all such estate and effects shall be, to all intents and purposes, as effectually and legally vested in such new assignee or assignees, as if the first assignment had been made to him or them, by the said commissioners; and if such first assignee or assignees shall refuse or neglect, for the space of ten days next after notice, in writing, from such new assignee or assignees, of their appointment, as aforesaid, to deliver over as aforesaid, all the estate and effects as aforesaid, every such assignee or assignees, shall, respectively, forfeit a sum not exceeding five thousand dollars, for the use of the creditors, and shall moreover be liable for the property so detained.

SEC. 8. *And be it further enacted*, That at any time, previous to the closing of the accounts of the said assignee or assignees so chosen as aforesaid, it shall be lawful for such creditors of the bankrupt, as are hereby authorized to vote in the choice of assignees, or the major part of them, in value, at a regular meeting of the said creditors, to be called for that purpose, by the said commissioners, or by one-fourth, in value, of such creditors, to remove all or any of the assignees chosen as aforesaid, and to choose one or more in his or their place and stead; and such assignee or assignees as shall be so removed, shall deliver up all the estate and effects of such bankrupt, which shall have come into his or their hands or possession, unto such new assignee or assignees as shall be chosen by the creditors at such meeting; and all such estate and effects shall be, to all intents and purposes, as effectually and legally vested in such new assignee or assignees, as if the first assignment had been made to him or them, by the said commissioners: And if such former assignee or assignees shall refuse or neglect, for the space of ten days next after notice, in writing, from such new assignee or assignees, of their appointment, as aforesaid, to deliver over, as aforesaid, all the estate and effects aforesaid, every such former assignee or assignees, shall, respectively, forfeit a sum not exceeding five thousand dollars, for the use of the creditors, and shall moreover be liable for the property so detained.

SEC. 9. *And be it further enacted*, That whenever a new assignee or assignees shall be chosen, as aforesaid, no suit at law or in equity shall be thereby abated; but it shall and may be lawful for the court in which any suit may depend, upon the suggestion of a removal of a former assignee or assignees, and of the appointment of a new assignee or assignees; to allow the name of such new assignee or assignees to be substituted in place of the name or names of the former assignee or assignees, and thereupon the suit shall be prosecuted in the name or names of the new assignee or assignees, in the same manner as if he or they had originally commenced the suit in his or their own names.

SEC. 10. *And be it further enacted*, That the assignment or assignments of the commissioners of the bankrupt's estate and effects as aforesaid, made as aforesaid, shall be good at law or in equity, against the bankrupt; and all persons claiming by, from, or under, such bankrupt, by any act done at the time, or after he shall have committed the act of bankruptcy, upon which the commission issued: *Provided always*, That in case of a bona fide purchase made before the issuing of the commission from or under such bankrupt, for a valuable consideration, by any person having no knowledge, information, or notice, of any act of bankruptcy committed, such purchase shall not be invalidated or impeached.

SEC. 11. *And be it further enacted*, That the said commissioners shall have power, by deed or deeds, under their hands and seals, to assign and convey to the assignee or assignees, to be appointed or chosen as aforesaid, any lands, tenements, or hereditaments, which such bankrupt shall be seized of, or entitled to, in fee tail, at law, or in equity, in possession, remainder, or reversion, for the benefit of the creditors; and all such deeds, being duly executed and recorded, according to the laws of the State within which such lands, tenements, or hereditaments may be situate, shall be good and effectual against all persons whom the said bankrupt, by common recovery, or other means, might or could bar of any estate, right, title, or possibility, of or in the said lands, tenements, or hereditaments.

SEC. 12. *And be it further enacted*, That if any bankrupt shall have conveyed or assured any lands, goods, or estate, unto any person, upon condition or power of redemption, by payment of money or otherwise, it shall be lawful for the commissioners, or for any person by them duly authorized for that purpose, by writing, under their hands and seals, to make tender of money or other performance, according to the nature of such condition, as fully as the bankrupt might have done; and the commissioners, after such performance or tender, shall have power to assign such lands, goods, and estate, for the benefit of the creditors, as fully and effectually as any other part of the estate of such bankrupt.

SEC. 13. *And be it further enacted*, That the commissioners aforesaid shall have power to assign, for the use aforesaid, all the debts due to such bankrupt, or to any other person for his or her use

or benefit; which assignment shall vest the property and right thereof in the assignee or assignees of such bankrupt, as fully as if the bond, judgment, contract, or claim, had originally belonged or been made to the said assignees; and after the said assignment, neither the said bankrupt, nor any person acting as trustee for him or her, shall have power to recover or discharge the same, nor shall the same be attached as the debt of the said bankrupt; but the assignee or assignees aforesaid shall have such remedy to recover the same, in his or their own name or names, as such bankrupt might or could have had, if no commission of bankruptcy had issued: And when any action in the name of such bankrupt shall have been commenced, and shall be pending, for the recovery of any debt or effects of such bankrupt, which shall be assigned, or shall, or might become vested in the assignee or assignees of such bankrupt as aforesaid, then such assignee or assignees may claim to be, and shall be thereupon, admitted to prosecute such action in his or their name, for the use and benefit of the creditors of such bankrupt; and the same judgment shall be rendered in such action, and all attachments or other security taken therein, shall be in like manner holden and liable, as if the said action had been originally commenced in the name of such assignee or assignees, after the original plaintiff therein had become a bankrupt as aforesaid: *Provided*, That where a debtor shall have, bona fide, paid his debt to any bankrupt, without notice that such person was bankrupt, he or she shall not be liable to pay the same to the assignee or assignees.

SEC. 14. *And be it further enacted*, That if complaint shall be made or information given to the commissioners, or if they shall have good reason to believe or suspect, that any of the property, goods, chattels, or debts, of the bankrupt, are in the possession of any other person, or that any person is indebted to, or for the use of the bankrupt, then the said commissioners shall have power to summon, or cause to be summoned, by their attorney or other person duly authorized by them, all such persons before them, or the judge of a district where such persons shall reside, by such process, or other means, as they shall think convenient, and, upon their appearance, to examine them by parole, or by interrogatories, in writing, on oath or affirmation, which oath or affirmation they are hereby empowered to administer, respecting the knowledge of all such property, goods, chattels, and debts; and if such person shall refuse to be sworn or affirmed, and to make answers to such questions or interrogatories as shall be administered, and to subscribe the said answers, or upon examination shall not declare the whole truth, touching the subject-matter of such examination, then it shall be lawful for the commissioners, or judge, to commit such person to prison, there to be detained until they shall submit themselves to be examined in manner aforesaid, and they shall, moreover, forfeit double the value of all the property, goods, chattels, and debts, by them concealed.

SEC. 15. *And be it further enacted*, That if any

of the aforesaid persons shall, after legal summons to appear before the commissioners or judge, to be examined, refuse to attend, or shall not attend at the time appointed, having no such impediment as shall be allowed of by the commissioner or judge, it shall be lawful for the said commissioners or judge to direct their warrants to such person or persons as by them shall be thought proper, to apprehend such persons as shall refuse to appear, and to bring them before the commissioners or judge, to be examined, and upon their refusal to come, to commit them to prison, until they shall submit themselves to be examined, according to the directions of this act: *Provided*, That such witnesses as shall be sent for, shall be allowed such compensation as the commissioners, or judge, shall think fit, to be rateably borne by the creditors; and if any person, other than the bankrupt, either by subornation of others, or by his or her own act, shall wilfully or corruptly commit perjury on such examination, to be taken before the commissioners as aforesaid, the party so offending, and all persons who shall procure any person to commit such perjury, shall, on conviction thereof, be fined, not exceeding four thousand dollars, and imprisoned, not exceeding two years, and moreover shall, in either case, be rendered incapable of being a witness in any court of record.

SEC. 16. *And be it further enacted*, That if any person or persons shall fraudulently, or collusively claim any debts, or claim or detain any real or personal estate of the bankrupt, every such person shall forfeit double the value thereof, to and for the use of the creditors.

SEC. 17. *And be it further enacted*, That if any person, prior to his or her becoming a bankrupt, shall convey to any of his or her children, or other persons, any lands or goods, or transfer his or [her] debts or demands into other person's names, with intent to defraud his or her creditors, the commissioners shall have power to assign the same, in as effectual a manner as if the bankrupt had been actually seized or possessed thereof.

SEC. 18. *And be it further enacted*, That if any person or persons who shall become bankrupt within the intent and meaning of this act, and against whom a commission of bankruptcy shall be duly issued, upon which commission such person or persons shall be declared bankrupt, shall not, within forty-two days after notice thereof, in writing, to be left at the usual place of abode of such person or persons, or personal notice in case such person or persons be then in prison, and notice given in some gazette, that such commission hath been issued, and of the time and place of meeting of the commissioners, surrender him or herself to the said commissioners, and sign or subscribe such surrender, and submit to be examined, from time to time, upon oath or solemn affirmation, by and before such commissioners, and in all things conform to the provisions of this act, and also upon such his or her examination, fully and truly disclose and discover all his or her effects and estate, real and personal, and how and in what manner, to whom and upon what consideration, and at what time or times he or she hath dis-

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posed of, assigned or transferred, any of his or her goods, wares, or merchandise, moneys, or other effects and estate, and of all books, papers, and writings, relating thereunto, of which he or she was possessed, or in or to which he or she was any ways interested or entitled, or which any person or persons shall then have, or shall have had in trust for him or her, or for his or her use, at any time before or after the issuing of the said commission, or whereby such bankrupt, or his or her family, then hath, or may have or expect any profit, possibility of profit, benefit or advantage whatsoever, except only such part of his or her estate and effects as shall have been really and bona fide before sold and disposed of, in the way of his or her trade and dealings, and except such sums of money as shall have been laid out in the ordinary expenses of his or her family, and also, upon such examination, execute in due form of law, such conveyance, assurance, and assignment of his or her estate, whatsoever and wheresoever, as shall be devised and directed by the commissioners, to vest the same in the assignees, their heirs, executors, administrators, and assigns, for ever, in trust, for the use of all and every the creditors of such bankrupt, who shall come in and prove their debts under the commission; and deliver up unto the commissioners, all such part of his or her, the said bankrupt's, goods, wares, merchandise, money, effects, and estate, and all books, papers, and writings, relating thereunto, as at the time of such examination shall be in his or her possession, custody, or power, his or her necessary wearing apparel, and the necessary wearing apparel of the wife and children, and necessary beds and bedding, of such bankrupt only excepted, then he or she, the said bankrupt, upon the conviction of any wilful default, or omission in any of the matters or things aforesaid, shall be adjudged a fraudulent bankrupt, and shall suffer imprisonment for a term not less than twelve months, nor exceeding ten years, and shall not, at any time after, be entitled to the benefits of this act: *Provided always*, That in case any bankrupt shall be in prison or custody at the time of issuing such commission, and is willing to surrender and submit to be examined, according to the directions of this act, and can be brought before the said commissioners and creditors for that purpose, the expense thereof shall be paid out of the said bankrupt's effects, and in case such bankrupt is in execution, or cannot be brought before the commissioners, that then the said commissioners, or some one of them, shall, from time to time, attend the said bankrupt in prison or custody, and take his or her discovery as in other cases, and the assignees, or one of them, or some person appointed by them, shall attend such bankrupt in prison or custody, and produce his or her books, papers, and writings, in order to enable him or her to prepare his or her discovery; a copy whereof the said assignees shall apply for, and the said bankrupt shall deliver to them or their order, within a reasonable time after the same shall have been required.

SEC. 19. *And be it further enacted*, That the said commissioners shall appoint, within the said forty-two days, so limited as aforesaid, for the bank-

rupt to surrender and conform as aforesaid, not less than three several meetings for the purposes aforesaid, the third of which meetings shall be on the last of the said forty-two days: *Provided always*, That the judge of the district within which such commission issues, shall have power to enlarge the time so limited as aforesaid, for the purposes aforesaid, as he shall think fit, not exceeding fifty days, to be computed from the end of the said forty-two days, so as such order for enlarging the time be made at least six days before the expiration of said term.

SEC. 20. *And be it further enacted*, That it shall be lawful for the commissioners, or any other person or officers, by them to be appointed by their warrant, under their hands and seals, to break open in the day-time the houses, chambers, shops, warehouses, doors, trunks, or chests, of the bankrupt, where any of his or her goods or estate, deeds, books of account, or writings, shall be, and to take possession of the goods, money, and other estate, deeds, books of account, or writings, of such bankrupt.

SEC. 21. *And be it further enacted*, That if the bankrupt shall refuse to be examined, or to answer fully, or to subscribe his or her examination, as aforesaid, it shall be lawful for the commissioners to commit the offender to close imprisonment, until he or she shall conform him or herself; and if the said bankrupt shall submit to be examined, and upon his or her examination, it shall appear that he or she hath committed wilful or corrupt perjury, he or she may be indicted therefor, and, being thereof convicted, shall suffer imprisonment for a term not less than two years, nor exceeding ten years.

SEC. 22. *And be it further enacted*, That every bankrupt, having surrendered, shall, at all seasonable times before the expiration of the said forty-two days, as aforesaid, or of such further time as shall be allowed to finish his or her examination, be at liberty to inspect his or her books and writings, in the presence of some person to be appointed by the commissioners, and to bring with him or her, for his or her assistance, such persons as he or she shall think fit, not exceeding two at one time, and to make extracts and copies, to enable him or her to make a full discovery of his or her effects; and the said bankrupt shall be free from arrests, in coming to surrender, and, after having surrendered to the said commissioners, for the said forty-two days, or such further time as shall be allowed for the finishing his or her examination; and in case such bankrupt shall be arrested for debt, or taken on any escape warrant or execution, coming to surrender, or after his surrender, within the time before mentioned, then on producing such summons or notice under the hand of the commissioners, and giving the officer a copy thereof, he or she shall be discharged; and in case any officer shall afterwards detain such bankrupt, such officers shall forfeit to such bankrupt, for his or her own use, ten dollars for every day he shall detain the bankrupt.

SEC. 23. *And be it further enacted*, That every person who shall, knowingly, or wilfully, receive

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or keep concealed any bankrupt, so as aforesaid summoned to appear, or who shall assist such bankrupt in concealing him or herself, or in absconding, shall suffer such imprisonment, not exceeding twelve months, or pay such fine to the United States, not exceeding one thousand dollars, as upon conviction thereof shall be adjudged.

SEC. 24. *And be it further enacted,* That the said commissioners shall have power to examine, upon oath or affirmation, the wife of any person lawfully declared a bankrupt, for the discovery of such part of his estate as may be concealed or disposed of by such wife, or by any other person; and the said wife shall incur such penalties for not appearing before the said commissioners, or refusing to be sworn or affirmed, or examined, and to subscribe her examination, or for not disclosing the truth, as by this act is provided against any other person in like cases.

SEC. 25. *And be it further enacted,* That in case any person shall be committed by the commissioners for refusing to answer, or for not fully answering, any question, or for any other cause, the commissioners shall, in their warrant, specify such question or other cause of commitment.

SEC. 26. *And be it further enacted,* That if after the bankrupt shall have finished his or her final examination, any other person or persons shall voluntarily make discovery of any part of such bankrupt's estate, before unknown to the commissioners, such person or persons shall be entitled to five per cent. out of the effects so discovered, and such further reward as the commissioners shall think proper; and any trustee, having notice of the bankruptcy, wilfully concealing the estate of any bankrupt, for the space of ten days after the bankrupt shall have finished his final examination, as aforesaid, shall forfeit double the value of the estate so concealed, for the benefit of the creditors.

SEC. 27. *And be it further enacted,* That if any person shall become bankrupt, and at such time, by consent of the owner, have in his or her possession and disposition, any goods whereof he or she shall be reputed owner, and take upon him or herself, the sale, alteration, or disposition thereof, as owner, the commissioners shall have power to assign the same, for the benefit of the creditors, as fully as any other part of the estate of the bankrupt.

SEC. 28. *And be it further enacted,* That if any bankrupt, after the issuing any commission against him or her, pay to the person who sued out the same, or give or deliver to such person, goods, or any other satisfaction or security, for his or her debt, whereby such person shall privately have and receive a greater proportion of his or her debt than the other creditors, such preference shall be a new act of bankruptcy, and, on good proof thereof, such commission shall and may be superseded, and it shall and may be lawful for either of the judges, having authority to grant the commission as aforesaid, to award any creditor petitioning another commission; and such person, so taking such undue satisfaction as aforesaid, shall forfeit and lose, as well his or her whole debts, as the whole he or she shall have taken and received,

and shall pay back, or deliver up the same, or the full value thereof, to the assignee or assignees who shall be appointed or chosen under such commission, in manner aforesaid, in trust for, and to be divided among the other creditors of the said bankrupt, in proportion to their respective debts.

SEC. 29. *And be it further enacted,* That every person who shall be chosen assignee of the estate and effects of a bankrupt, shall, at some time after the expiration of four months, and within twelve months from the time of issuing the commission, cause at least thirty days public notice to be given, of the time and place the commissioners and assignees intend to meet, to make a dividend or distribution of the bankrupt's estate and effects; at which time the creditors, who have not before proved their debts, shall be at liberty to prove the same; and, upon every such meeting, the assignee or assignees shall produce to the commissioners and creditors, then present, fair and just accounts of all his or their receipts and payments, touching the bankrupt's estate and effects, and of what shall remain outstanding, and the particulars thereof, and shall, if the creditors then present, or a major part of them, require the same, be examined upon oath or solemn affirmation, before the same commissioners, touching the truth of such accounts; and in such accounts the said assignee or assignees shall be allowed and retain all such sums of money, as they shall have paid or expended in suing out and prosecuting the commission, and all other just allowances on account of, or by reason or means of their being assignee or assignees; and the said commissioners shall order such part of the net produce of the said bankrupt's estate, as by such accounts or otherwise shall appear to be in the hands of the said assignees, as they shall think fit, to be forthwith divided among such of the bankrupt's creditors as have duly proved their debts under such commission, in proportion to their several and respective debts; and the commissioners shall make such their order for a dividend in writing, under their hands, and shall cause one part of such order to be filed amongst the proceedings under the said commission, and shall deliver unto each of the assignees, under such commission, a duplicate of such their order, which order of distribution shall contain an account of the time and place of making such order, and the sum total or quantum of all the debts proved under the commission, and the sum total of the money remaining in the hands of the assignee or assignees to be divided, and how many per cent. in particular is there ordered to be paid to every creditor of his debt; the said assignee or assignees in pursuance of such order, and without any deed or deeds of distribution, to be made for the purpose, shall forthwith make such dividend and distribution accordingly, and shall take receipts, in a book to be kept for the purpose, from each creditor, for the part or share of such dividend or distribution, which he or they shall make, and pay to each creditor respectively; and such order and receipt shall be a full and effectual discharge to such assignee for so much as he shall fairly pay, pursuant to such order as aforesaid.

SEC. 30. *And be it further enacted*, That, within eighteen months next after the issuing of the commission, the assignee or assignees shall make a second dividend of the bankrupt's estate and effects, in case the same were not wholly divided upon the first dividend, and shall cause due public notice to be given of the time and place the said commissioners intend to meet, to make a second distribution of the bankrupt's estate and effects, and for the creditors who shall not before have proved their debts, to come in and prove the same; and at such meeting, the said assignees shall produce, on oath or solemn affirmation, as aforesaid, their accounts of the bankrupt's estate and effects, and what, upon the balance thereof, shall appear to be in their hands, shall, by like order of the commissioners, be forthwith divided amongst such of the bankrupt's creditors as shall have made due proof of their debts, in proportion to their several and respective debts; which second dividend shall be final, unless any suit at law, or equity, be depending, or any part of the estate standing out, that could not have been disposed of, or that the major part of the creditors shall not have agreed to be sold or disposed of, or unless some other or future estate or effects of the bankrupt shall afterwards come to, or rest in the said assignees, in which cases the said assignees shall, as soon as may be, convert such future or other estate and effects into money, and shall, within two months after the same be converted into money, by like order of the commissioners, divide the same among such bankrupt's creditors as shall have made due proof of their debt under such commission.

SEC. 31. *And be it further enacted*, That, in the distribution of the bankrupt's effects, there shall be paid to every of the creditors a portion rate, according to the amount of their respective debts, so that every creditor having security for his debt by judgment, statute, recognizance, or specialty, or having an attachment under any of the laws of the individual States, or of the United States, on the estate of such bankrupt, (*Provided*, there be no execution executed upon any of the real or personal estate of such bankrupt, before the time he or she became bankrupts,) shall not be relieved upon any such judgment, statute, recognizance, specialty, or attachment, for more than a rateable part of his debt, with the other creditors of the bankrupt.

SEC. 32. *And be it further enacted*, That the assignees shall keep one or more distinct book or books of account, wherein he or they shall duly enter all sums of money or effects, which he or they shall have received, or got into his or their possession, of the said bankrupt's estate, to which books of account, every creditor, who shall have proved his or her debt, shall, at all reasonable times, have free resort, and inspect the same as often as he or she shall think fit.

SEC. 33. *And be it further enacted*. That every bankrupt, not being in prison or custody, shall, at all times after his surrender, be bound to attend the assignees, upon every reasonable notice, in writing, for that purpose, given or left at the usual place of his or her abode, in order to assist in making out the accounts of the said bankrupt's estate and

effects, and to attend any court of record, to be examined touching the same, or such other business as the said assignees shall judge necessary, for which he shall receive three dollars per day.

SEC. 34. *And be it further enacted*, That all and every person and persons who shall become bankrupt as aforesaid, and who shall, within the time limited by this act, surrender him or herself to the commissioners, and in all things conform as in and by this act is directed, shall be allowed five per cent. upon the net produce of all the estate that shall be recovered in and received, which shall be paid unto him or her by the assignee or assignees, in case the net produce of such estate, after such allowance made, shall be sufficient to pay the creditors of said bankrupt, who shall have proved their debts under such commission, the amount of fifty per cent. on their said debts, respectively, and so as the said five per cent. shall not exceed in the whole the sum of five hundred dollars; and in case the net produce of the said estate shall, over and above the allowance hereafter mentioned, be sufficient to pay the said creditors seventy-five per cent. on the amount of their said debts, respectively, that then the said bankrupt shall be allowed ten per cent. on the amount of such net produce, to be paid as aforesaid, so as such ten per cent. shall not in the whole, exceed the sum of eight hundred dollars; and every such bankrupt shall be discharged from all debts by him or her due or owing, at the time he or she became bankrupt, and all which were or might have been proved under the said commission; and in case any such bankrupt shall afterwards be arrested, prosecuted or impleaded, for or on account of any of the said debts, such bankrupt may appear without bail, and may plead the general issue, and give this act, and the special matter in evidence: And the certificate of such bankrupt's conforming, and the allowance thereof, according to the directions of this act, shall be, and shall be allowed to be, sufficient evidence, *prima facie*, of the party's being a bankrupt within the meaning of this act, and of the commission and other proceedings precedent to the obtaining such certificate, and a verdict shall thereupon pass for the defendant, unless the plaintiff in such action can prove the said certificate was obtained unfairly, and by fraud, or unless he can make appear any concealment of estate or effects, by such bankrupt, to the value of one hundred dollars: *Provided*, That no such discharge of a bankrupt shall release or discharge any person who was a partner with such bankrupt, at the time he or she became bankrupt, or who was then jointly held or bound with such bankrupt, for the same debt or debts from which such bankrupt was discharged as aforesaid.

SEC. 35. *Provided always, and be it further enacted*, That if the net proceeds of the bankrupt's estate, so to be discovered, recovered, and received, shall not amount to so much as will pay all and every of the creditors of the said bankrupt, who shall have proved their debts under the said commission, the amount of fifty per cent. on their debts respectively, after all charges first deducted, that then, and in such case, the bankrupt shall not be allowed five per centum on such estate as shall be

recovered in, but shall have and be paid by the assignees so much money as the commissioners shall think fit to allow, not more than three hundred dollars, nor exceeding two per centum on the net proceeds of the said bankrupt's estate.

SEC. 36. *Provided also, and be it further enacted,* That no person becoming a bankrupt according to the intent and provisions of this act, shall be entitled to a certificate of discharge, or to any of the benefits of the act, unless the commissioners shall certify under their hands, to the judge of the district within which such commission issues, that such bankrupt hath made a full discovery of his or her estate and effects, and in all things conformed him or herself to the directions of this act, and that there doth not appear to them any reason to doubt of the truth of such discovery, or that the same was not a full discovery of the said bankrupt's estate and effects; or unless the said judge should be of opinion that the said certificate was unreasonably denied by the commissioners; and unless two-thirds in number and in value of the creditors of the bankrupt, who shall be creditors for not less than fifty dollars respectively, and who shall have duly proved their debts under the said commission, shall sign such certificate to the judge, and testify their consent to the allowance of a certificate of discharge, in pursuance of this act; which signing and consent shall be also certified by the commissioners; but the said commissioners shall not certify the same till they have proof by affidavit or information, in writing, of such creditors, or of the persons respectively authorized for that purpose, signing the said certificate; which affidavit or information, together with the letter or power of attorney to sign, shall be laid before the judge of the district within which such commission issues, in order for the allowing the certificate of discharge, and the said certificate shall not be allowed unless the bankrupt make oath or affirmation, in writing, that the certificate of the commissioners, and consent of the creditors thereunto were obtained fairly and without fraud; and any of the creditors of the said bankrupt are allowed to be heard, if they shall think fit, before the respective persons aforesaid, against the making or allowing of such certificates by the commissioners or judge.

SEC. 37. *And be it further enacted,* That if any creditor, or pretended creditor, of any bankrupt, shall exhibit to the commissioners any fictitious or false debt or demand, with intent to defraud the real creditors of such bankrupt, and the bankrupt shall refuse to make discovery thereof, and suffer the fair creditors to be imposed upon, he shall lose all title to the allowance upon the amount of his effects, and to a certificate of discharge as aforesaid, nor shall he be entitled to the said allowance or certificate, if he has lost at any one time fifty dollars, or in the whole three hundred dollars, after the passing of this act, and within twelve months before he became a bankrupt, by any manner of gaming or wagering whatever.

SEC. 38. *And be it further enacted,* That if any bankrupt, who shall have obtained his certificate,

shall be taken in execution or detained in prison, on account of any debts owing before he became a bankrupt, by reason that judgment was obtained before such certificate was allowed, it shall be lawful for any of the judges of the court wherein judgment was obtained, or for any court, judge, or justice, within the district in which such bankrupt shall be detained, having powers to award or allow the writ of habeas corpus, on such bankrupt producing his certificate so as aforesaid allowed, to order any sheriff or jailer who shall have such bankrupt in custody, to discharge such bankrupt without fee or charge, first giving reasonable notice to the plaintiff, or his attorney, of the motion for such discharge.

SEC. 39. *And be it further enacted,* That every person who shall have bona fide given credit to or taken securities, payable at future days, from persons who are or shall become bankrupts, not due at the time of such persons becoming bankrupt, shall be admitted to prove their debts and contracts, as if they were payable presently, and shall have a dividend in proportion to the other creditors, discounting, where no interest is payable, at the rate of so much per centum per annum, as is equal to the lawful interest of the State where the debt was payable; and the obligee of any bottomry or respondentia bond, and the assured in any policy of insurance, shall be admitted to claim, and after the contingency or loss, to prove the debt thereon, in like manner as if the same had happened before issuing the commission; and the bankrupt shall be discharged from such securities, as if such money had been due and payable before the time of his or her becoming bankrupt; and such creditors may petition for a commission, or join in petitioning.

SEC. 40. *And be it further enacted,* That in case any person, committed by the commissioners' warrant, shall obtain a habeas corpus, in order to be discharged, and there shall appear any insufficiency in the form of the warrant, it shall be lawful for the court or judge before whom such party shall be brought by habeas corpus, by rule or warrant, to commit such person to the same prison, there to remain until he shall conform as aforesaid, unless it shall be made to appear that he had fully answered all lawful questions put to him by the commissioners; or in case such person was committed for not signing his examination, unless it shall appear that the party had good reason for refusing to sign the same, or that the commissioners had exceeded their authority in making such commitment; and in case the jailer to whom such person shall be committed shall wilfully or negligently suffer such person to escape, or to go without the doors or walls of the prison, such jailer shall, for such offence, being convicted thereof, forfeit a sum not exceeding three thousand dollars for the use of the creditors.

SEC. 41. *And be it further enacted,* That the jailer shall, upon the request of any creditor, having proved his debt, and showing a certificate thereof, under the hands of the commissioners, which the commissioners shall give without fee or reward, produce the person so committed; and

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in case such jailer shall refuse to show such person to such creditor requesting the same, such person shall be considered as having escaped, and the jailer or sheriff so refusing shall be liable as for a wilful escape.

SEC. 42. *And be it further enacted*, That where it shall appear to the said commissioners that there hath been mutual credit given by the bankrupt, and any other person, or mutual debts between them at any time before such person became bankrupt, the assignee or assignees of the estate shall state the account between them, and one debt may be set off against the other, and what shall appear to be due on either side on the balance of such account after such set-off, and no more, shall be claimed or paid on either side, respectively.

SEC. 43. *And be it further enacted*, That it shall and may be lawful to and for the assignee or assignees of any bankrupt's estate and effects, under the direction of the commissioners, and by and with the consent of the major part in value of such of the said bankrupt's creditors as shall have duly proved their debts under the commission, and shall be present at any meeting of the said creditors, to be held in pursuance of due and public notice for that purpose given, to submit any difference or dispute for, on account of, or by reason or means of, any matter, cause, or thing whatsoever, relating to such bankrupt, or to his or her estate or effects, to the final end and determination of arbitrators to be chosen by the said commissioners, and the major part in value of such creditors as shall be present at such meeting as aforesaid, and the party or parties with whom they shall have had such difference or dispute, and to perform the award of such arbitrators, or otherwise to compound and agree the matter in difference and dispute aforesaid, in such manner as the said assignee or assignees, under the direction and with the consent aforesaid, shall think fit and can agree; and the same shall be binding on the several creditors of the said bankrupt, and the said assignee or assignees are hereby indemnified for what they shall fairly do, according to the directions aforesaid.

SEC. 44. *And be it further enacted*, That the assignees shall be, and hereby are, vested with full power to dispose of all the bankrupt's estate, real and personal, at public auction or vendue, without being subject to any tax, duty, imposition, or restriction, any law to the contrary notwithstanding.

SEC. 45. *And be it further enacted*, That if after any commission of bankruptcy, sued forth, the bankrupt happen to die before the commissioners shall have distributed the effects, or any part thereof, the commissioners shall, nevertheless, proceed to execute the commission, as fully as they might have done if the party were living.

SEC. 46. *And be it further enacted*, That where any commission of bankruptcy shall be delivered to the commissioners therein named, to be executed, it shall and may be lawful for them, before they take the oath or affirmation of qualification, to demand and take from the creditor or creditors

prosecuting such commission, a bond with one good security, if required, in the penalty of one thousand dollars, conditioned for the payment of the costs, charges, and expenses, which shall arise and accrue upon the prosecution of the said commission: *Provided, always*, That the expenses so as aforesaid to be secured and paid by the petitioning creditor or creditors, shall be repaid to him or them by the commissioners or assignees, out of the first moneys arising from the bankrupt's estate or effects, if so much be received therefrom.

SEC. 47. *And be it further enacted*, That the district judges, in each district, respectively, shall fix a rate of allowance to be made to the commissioners of bankruptcy, as compensation of services to be rendered under the commission, and it shall be lawful for any creditor, by petition to the district judge, to except to any charge contained in the account of the commissioners; and the said judge, after hearing the commissioners, may in a summary way decide upon the validity of such exception.

SEC. 48. *And be it further enacted*, That all penalties given by this act for the benefit of the creditors, shall be recovered by the assignee or assignees by action of debt, and the money so recovered, the charges of suit being deducted, shall be distributed towards payment of the creditors.

SEC. 49. *And be it further enacted*, That if any action shall be brought against any commissioner, or assignee, or other person, having authority under the commission, for anything done or performed by force of this act, the defendant may plead the general issue, and give this act and the special matter in evidence; and in case of a non-suit, discontinuance, or verdict or judgment for him, he shall recover double costs.

SEC. 50. *And be it further enacted*, That if any estate, real or personal, shall descend, revert to, or become vested in, any person, after he or she shall be declared a bankrupt, and before he or she shall obtain a certificate, signed by the judge as aforesaid, all such estate shall, by virtue of this act, be vested in the said commissioners, and shall be by them assigned and conveyed to the assignee or assignees in fee simple, or otherwise, in like manner as above directed, with the estate of the said bankrupt, at the time of the bankruptcy, and the proceeds thereof shall be divided among the creditors.

SEC. 51. *And be it further enacted*, That the said commissioners shall, once in every year, carefully file, in the clerk's office of the district court, all the proceedings had in every case before them, and which shall have been finished, including the commissions, examinations, dividends, entries, and other determinations, of the said commissioners, in which office the final certificate of the said bankrupt may also be recorded; all which proceedings shall remain of record in the said office, and certified copies thereof shall be admitted as evidence in all courts, in like manner as the copies of the proceedings of the said district court are admitted in other cases.

SEC. 52. *And be it further enacted*, That it shall and may be lawful for any creditor of such bank-

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rupt, to attend all or any of the examinations of said bankrupt, and the allowance of the final certificate, if he shall think proper, and then and there to propose interrogatories, to be put by the judge or commissioners, to the said bankrupt and others, and also to produce and examine witnesses and documents, before such judge or commissioners, relative to the subject-matter before them. And in case either the bankrupt or creditor shall think him or herself aggrieved by the determination of the said judge or commissioners, relative to any material fact, in the commencement or progress of the said proceedings, or in the allowance of the certificate aforesaid, it shall and may be lawful for either party to petition the said judge, setting forth such facts and the determination thereon, with the complaint of the party, and a prayer for trial by a jury to determine the same, and the said judge shall, in his discretion, make order thereon, and award a *venire facias* to the marshal of the district, returnable within fifteen days before him, for the trial of the facts mentioned in the said petition, notice whereof shall be given to the commissioners and creditors concerned in the same; at which time the said trial shall be had, unless, on good cause shown, the judge shall give farther time; and judgment being entered on the verdict of the jury, shall be final, on the said facts, and the judge or commissioners shall proceed agreeably thereto.

SEC. 53. *And be it further enacted*, That the commissioners, before the appointment of assignees, and the assignees after such appointment, may, from time to time, make such allowance out of the bankrupt's estate, until he shall have obtained his final discharge, as in their opinion may be requisite for the necessary support of the said bankrupt and his family.

SEC. 54. *And be it further enacted*, That it shall be lawful for the major part in value of the creditors, before they proceed to the choice of assignees, to direct in what manner, with whom, and where, the moneys arising by, and to be received from time to time out of, the bankrupt's estate, shall be lodged until the same shall be divided among the creditors, as herein provided; to which direction every such assignee and assignees shall conform as often as three hundred dollars shall be received.

SEC. 55. *And be it further enacted*, That every matter and thing, by this act required to be done by the commissioners of any bankrupt, shall be valid to all intents and purposes, if performed by a majority of them.

SEC. 56. *And be it further enacted*, That in all cases where the assignees shall prosecute any debtor of the bankrupt, for any debt, duty, or demand, the commission, or a certified copy thereof, and the assignment of the commissioners of the bankrupt's estate, shall be conclusive evidence of the issuing the commission, and of the person named therein being a trader and bankrupt, at the time mentioned therein.

SEC. 57. *And be it further enacted*, That every person obtaining a discharge from his debts, by certificate as aforesaid, granted under a commission of bankruptcy, shall not, on any future com-

mission, be entitled to any other certificate than a discharge of his person only; unless the net proceeds of the estate and effects of such person, so becoming bankrupt a second time, shall be sufficient to pay seventy-five per cent. to his or her creditors on the amount of their debts respectively.

SEC. 58. *And be it further enacted*, That any creditor of a person, against whom a commission of bankruptcy shall have been sued forth, and who shall lay his claim before the commissioners appointed in pursuance of this act, may at the same time declare his unwillingness to submit the same to the judgment of the said commissioners, and his wish that a jury may be impaneled to decide thereon: And in like manner the assignee or assignees of such bankrupt may object to the consideration of any particular claim by the commissioners, and require that the same should be referred to a jury. In either case, such objection and request shall be entered on the books of the commissioners, and thereupon an issue shall be made up between the parties, and a jury shall be impaneled, as in other cases, to try the same in the circuit court for the district in which such bankrupt has usually resided. The verdict of such jury shall be subject to the control of the court, as in suits originally instituted in the said court, and when rendered, if not set aside by the court, shall be certified to the commissioners, and shall ascertain the amount of any such claim, and such creditor or creditors shall be considered in all respects as having proved their debts under the commission.

SEC. 59. *And be it further enacted*, That the lands and effects of any person becoming bankrupt may be sold on such credit, and on such security, as a major part in value of the creditors may direct: *Provided*, nothing herein contained shall be allowed so to operate, as to retard the granting the bankrupt's certificate.

SEC. 60. *And be it further enacted*, That if any person becoming bankrupt shall be in prison, it shall be lawful for any creditor or creditors, at whose suit he or she shall be in execution, to discharge him or her from custody, or if such creditor or creditors shall refuse to do so, the prisoner may petition the commissioners, to liberate him or her, and thereupon, if, in the opinion of the commissioners, the conduct of such bankrupt shall have been fair, so as to entitle him or her in their opinion, to a certificate, when by law such certificate might be given, it shall be lawful for them to direct the discharge of such prisoner, and to enter the same in their books, which being notified to the keeper of the jail in which such prisoner may be confined, shall be a sufficient authority for his or her discharge: *Provided*, That in either case, such discharge shall be no bar to another execution, if a certificate shall be refused to such bankrupt: *And provided also*, that it shall be no bar to a subsequent imprisonment of such bankrupt by order of the commissioners, in conformity with the provisions of this act.

SEC. 61. *And be it further enacted*, That this act shall not repeal or annul, or be construed to repeal or annul, the laws of any State now in force,

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or which may be hereafter enacted, for the relief of insolvent debtors, except so far as the same may respect persons who are, or may be, clearly within the purview of this act, and whose debts shall amount, in the cases specified in the second section thereof, to the sums therein mentioned. And if any person within the purview of this act, shall be imprisoned for the space of three months, for any debt, or upon any contract, unless the creditors of such prisoner shall proceed to prosecute a commission of bankruptcy against him or her, agreeably to the provisions of this act, such debtor may and shall be entitled to relief, under any such laws for the relief of insolvent debtors, this act notwithstanding.

SEC. 62. *And be it further enacted,* That nothing contained in this law shall, in any manner, affect the right of preference to prior satisfaction of debts due to the United States, as secured or provided by any law heretofore passed, nor shall be construed to lessen or impair any right to, or security for, money due to the United States, or to any of them.

SEC. 63. *And be it further enacted,* That nothing contained in this act shall be taken or construed to invalidate or impair any lien, existing at the date of this act, upon the lands or chattels of any person who may have become a bankrupt.

SEC. 64. *And be it further enacted,* That this act shall continue in force during the term of five years, and from thence to the end of the next session of Congress thereafter, and no longer: *Provided,* that the expiration of this act shall not prevent the complete execution of any commission which may have been previously thereto issued.

Approved, April 4, 1800.

An Act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act entitled "An act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c., That any goods, wares, or merchandise, which shall be exported from the United States, after the tenth day of April current, in the manner prescribed by law, to the port of New Orleans, on the river Mississippi, shall be deemed and taken to be entitled to such drawbacks of duties as would be allowable thereon when exported to any other foreign port or place, anything in the act entitled "An act to regulate the collection of duties on imports and tonnage," to the contrary hereof notwithstanding.

Approved, April 5, 1800.

An Act to continue in force "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein," and for other purposes therein mentioned.

Be it enacted, &c., That the act entitled "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein," shall be in force, and is hereby continued, for the term of ten years, from the third day of March, one thousand eight

hundred, and until the end of the session of Congress next ensuing the expiration of that term, any thing in the ninth section of the said act to the contrary hereof notwithstanding.

SEC. 2. *And be it further enacted,* That the additional allowances which were, by the sixth section of the act, entitled "An act for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned," and by the second section of the act, entitled "An act laying an additional duty on salt, and for other purposes," respectively granted to ships or vessels employed in the bank and other cod fisheries, shall be continued to the ships and vessels, respectively, which shall be so employed, in the terms and according to the intent of the said first mentioned act, for and during the further continuance thereof, as aforesaid: *Provided,* That the said allowances shall not be understood to be continued for a longer time than the correspondent duties, respectively, for which the said additional allowances were granted, shall be payable.

Approved, April 12, 1800.

An Act to alter the form of certain oaths and affirmations directed to be taken by the act, entitled "An act providing for the second census or enumeration of the inhabitants of the United States."

Be it enacted, &c., That so much of the first section of the act passed during the present session of Congress, entitled "An act providing for the second census or enumeration of the inhabitants of the United States," as relates to the form of the oaths or affirmations thereby directed to be taken by the marshals, secretaries, and assistants, therein mentioned; respectively, shall be, and hereby is, repealed, and that the said oaths or affirmations shall be in the following form; that is to say, the marshals and secretaries' oath or affirmation in the form following: "I, A. B., marshal of the district of —, (or the secretary of the territory of —, as the case may be,) do solemnly swear, or affirm, that I will well and truly cause to be made a just and perfect enumeration and description of the persons resident within my district, (or within the territory of —, as the case may be,) and will return the same to the Secretary of State, agreeably to the directions of an act of Congress, entitled "An act providing for the second census or enumeration of the inhabitants of the United States," according to the best of my ability: and the assistants' oath or affirmation in the form following: I, A. B., do solemnly swear, or affirm, that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me by the marshal of the district of —, (or the secretary of the territory of —, as the case may be,) and make due return thereof to the said marshal, or secretary, agreeably to the directions of an act of Congress, entitled "An act providing for the second census or enumeration of the inhabitants of the United States," according to the best of my ability.

Approved, April 12, 1800.

Acts of Congress.

An Act for the relief of the Corporation of Rhode Island College.

Be it enacted, &c., That the accounting officers of the Treasury be, and they are hereby, authorized and directed to liquidate and settle the claims of the Corporation of Rhode Island College, for compensation for the use and occupation of the edifice of the said college, and for injuries done to the same, from the tenth day of December, one thousand seven hundred and seventy-six, to the twentieth day of April, one thousand seven hundred and eighty, by the troops of the United States; and that the sum which may be found due to the said corporation, for damages done to and occupation of the said edifice, as aforesaid, be paid them out of any moneys in the Treasury not otherwise appropriated.

Approved, April 16, 1800.

An Act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees.

Be it enacted, &c., That all and singular the rights and privileges given, intended, or provided, to citizens of the United States, respecting patents for new inventions, discoveries, and improvements; by the act, entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose," shall be, and hereby are, extended and given to all aliens who, at the time of petitioning in the manner prescribed by the said act, shall have resided for two years within the United States, which privileges shall be obtained, used, and enjoyed, by such persons, in as full and ample manner, and under the same conditions, limitations, and restrictions, as by the said act is provided and directed in the case of citizens of the United States: *Provided always,* That every person petitioning for a patent for any invention, art or discovery, pursuant to this act, shall make oath or affirmation, before some person duly authorized to administer oaths, before such patent shall be granted, that such invention, art, or discovery, hath not to the best of his or her knowledge or belief, been known or used either in this or any foreign country; and that every patent which shall be obtained pursuant to this act, for any invention, art, or discovery, which it shall afterwards appear had been known or used previous to such application for a patent, shall be utterly void.

SEC. 2. *And be it further enacted,* That where any person hath made, or shall have made, any new invention, discovery, or improvement, on account of which a patent might, by virtue of this or the above-mentioned act, be granted to such person, as shall die before any patent shall be granted therefor, the right of applying for and obtaining such patent, shall devolve on the legal representatives of such person in trust for the heirs at law of the deceased, in case he shall have died intestate; but if otherwise, then in trust for his devisees, in as full and ample manner, and under the same conditions, limitations, and re-

strictions, as the same was held or might have been claimed or enjoyed by such person, in his or her life time; and when application for a patent shall be made by such legal representatives, the oath or affirmation provided in the third section of the before-mentioned act, shall be so varied as to be applicable to them.

SEC. 3. *And be it further enacted,* That where any patent shall be, or shall have been, granted, pursuant to this or the above-mentioned act, and any person, without the consent of the patentee, his or her executors, administrators, or assigns, first obtained in writing, shall make, devise, use, or sell the thing whereof the exclusive right is secured to the said patentee by such patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence, which sum shall and may be recovered by action on the case founded on this and the above-mentioned act, in the circuit court of the United States having jurisdiction thereof.

SEC. 4. *And be it further enacted,* That the fifth section of the above-mentioned act, entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose," shall be, and hereby is, repealed.

Approved, April 17, 1800.

An Act to fix the compensation of the Paymaster General, and Assistant to the Adjutant General.

Be it enacted, &c., That the Paymaster General of the Army of the United States shall receive one hundred and twenty dollars per month, with the rations and forage of a major, in full compensation for his services and travelling expenses, to be computed from the commencement of the time of his actual residence at the seat of Government; anything in the "Act for the better organizing of the troops of the United States, and for other purposes," to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That the pay of the Assistant of the Adjutant General, in addition to his pay and other emoluments in the line of the Army, shall be forty dollars per month, which shall be in full compensation for his extra services and travelling expenses, to be computed from the time of his entering upon actual service.

Approved, April 22, 1800.

An Act fixing the rank and pay of the commanding officer of the Corps of Marines.

Be it enacted, &c., That a lieutenant colonel commandant shall be appointed to command the corps of Marines, and shall be entitled to the same pay and emoluments as a lieutenant colonel in the Army of the United States, anything in the act for the establishing and organizing a Marine corps to the contrary notwithstanding; and that the office of Major of the said corps shall thereafter be abolished.

Approved, April 22, 1800.

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An Act to continue in force the act, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations."

Be it enacted, &c., That the act passed on the twenty-fifth day of June, one thousand seven hundred and ninety-eight, entitled "An act to authorize the defence of the merchant vessels of the United States against French depredations," excepting such parts of the said act as relate to salvage in cases of recapture, shall continue and be in force for and during the term of one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, April 22, 1800.

An Act to continue in force, for a limited time, an act, entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses."

Be it enacted, &c., That an act passed on the twenty-third day of January, one thousand seven hundred and ninety-eight, entitled "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," shall be and continue in force for the term of four years, and no longer.

Approved, April 22, 1800.

An Act supplementary to the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

Be it enacted, &c., That, from and after the passing of this act, it shall be lawful for any military officer, who may have charge or custody of any person or persons, who may have been, or shall be, apprehended in the Indian country, over and beyond the boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," to conduct him or them to some one of the justices of the inferior or county court of any county nearest to the place of his arrest, who, if the offence is bailable, is hereby authorized to take proper bail, if offered, in like manner as the judge of the superior court of any State is authorized to do, in and by the act above recited; unless such person, holden in custody as aforesaid, shall be charged upon oath with murder, or any other offence punishable with death, in which case such justice of any inferior or county court shall not have authority to take bail for such person.

Approved, April 22, 1800.

An Act to establish a General Stamp Office.

Be it enacted, &c., That there shall be appointed an officer, to be denominated Superintendent of Stamps, whose duty it shall be to superintend the stamping and marking of all vellum, parchment, and paper; to distribute the same among

the officers who are, or shall be, authorized to secure and collect the duties thereupon, and to keep fair and true records and accounts of his proceedings; which said officer, so to be appointed, shall be subject to the superintendence, control, and direction of the Treasury Department, according to the respective authorities and duties of the officers thereof; and shall, for the better execution of the duties and trusts in him reposed, observe and execute such directions as he shall, from time to time, receive from said department.

SEC. 2. *And be it further enacted,* That the said superintendent shall hold his office at the seat of the Government of the United States, and shall be allowed, as a compensation for his services, the sum of two thousand dollars, annually, to be paid quarter-yearly at the Treasury of the United States; and shall also be allowed the necessary expenses of office rent, fuel, printing, and packing, and of procuring books and stationery for the use of his office, and that all letters and packages to and from him shall be free of postage.

SEC. 3. *And be it further enacted,* That the said superintendent shall, with the approbation of the principal officer of the Treasury Department, employ such number of clerks and other assistants in his office as shall be found necessary; and shall apportion and vary the compensation to each, in such manner as the services rendered by each shall in his judgment require: *Provided,* That the whole amount of the compensations to said clerks and assistants shall not exceed two thousand five hundred dollars annually.

SEC. 4. *And be it further enacted,* That the said superintendent shall, within three months after entering upon his office, give bond, with sureties, for the true and faithful execution thereof, and for the settlement of his accounts at the periods which shall be prescribed by the proper officers at the Treasury Department, in the sum of ten thousand dollars, which bond shall be approved by the Comptroller of the Treasury, and kept in his office, to be by him put in suit for the benefit of the United States, upon any breach of the conditions thereof.

SEC. 5. *And be it further enacted,* That from and after the establishment of the office aforesaid at the seat of Government, and after six months' notice of the new stamps hereby directed to be prepared and issued; which notice shall be given by the Secretary of the Treasury, in the manner directed by the tenth section of the act entitled "An act laying duties on stamped vellum, parchment, and paper;" so much of the act or acts, heretofore passed, as empower and require the supervisors of the revenue to stamp or mark any vellum, parchment, or paper, shall cease and determine.

SEC. 6. *And be it further enacted,* That if any deed, instrument, or writing, whatever, charged by law with the payment of duty, shall have been, or shall be, written or printed, by any person or persons whomsoever, upon vellum, parchment, or paper, not stamped or marked according to law, or upon vellum, parchment, or paper, stamped or marked at a lower rate of duty than is by law required for such deed, instrument, or writing; then, and in every such case, it shall be lawful for the

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person or persons holding such deed, instrument, or writing, within twelve calendar months after the time of giving notice as aforesaid, or within six calendar months after the execution of such deed, instrument, or writing, to pay to the collector of the revenue, within whose collection district such person or persons shall reside, the duty chargeable by law on such deed, instrument, or writing, together with ten dollars in addition to such duty, which duty and additional sum of ten dollars, such collector is hereby authorized and required to receive, and without fee or reward to endorse a receipt therefor, under his hand and seal, upon some part of such deed, instrument, or writing, which deed, instrument, or writing, so endorsed, it shall then be lawful for such person or persons to produce to the surveyor of the revenue within whose assessment district such person or persons shall reside, which surveyor thereupon shall certify under his hand and seal, and upon some part of the said deed, instrument, or writing, that the same so endorsed as aforesaid has been produced to him, and that the said endorsement is in his belief genuine; after which said endorsement and certificate, and not otherwise, such deed, instrument, or writing, shall be to all intents and purposes as valid and available, as if the same had been or were stamped, counter-stamped, or marked, as by law required, anything in any act to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That every collector of the revenue shall keep a separate account of all moneys by him received in manner last aforesaid, and shall, at such times as the Secretary of the Treasury shall direct, transmit the said account together with such moneys, and a memorandum of all receipts by him endorsed in manner aforesaid, to the supervisor of the district, or the inspector of the survey, as the case may be; and that every surveyor of the revenue shall, at such time as the Secretary of the Treasury shall direct, transmit to the said supervisor or inspector, as the case may be, a true copy of all certificates given by him as aforesaid, and of the receipts respectively certified, and thereupon such surveyor shall be entitled to receive from the supervisor or inspector fifty cents for every such certificate by him signed as aforesaid.

SEC. 8. *And be it further enacted*, That if any person, with intent to defraud the United States of any sum of moneys directed to be paid by this act, or of any of the duties or duty laid by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," shall counterfeit or forge, or cause or procure to be counterfeited or forged, any of the certificates, receipts, or endorsements, provided for and directed by the sixth section of this act, or shall utter, pass away, vend, or offer in evidence, in any court of justice, any such forged or counterfeit receipt, certificate, or endorsement, knowing the same to be forged or counterfeit, then every such person so offending, and being thereof convicted in due form of law, shall be adjudged guilty of a misdemeanor, and shall be subject to be fined in any sum not exceeding one thousand dollars, and to be imprisoned for any term not exceeding seven years.

SEC. 9. *And for the convenience of those persons who may be inclined to have their own vellum, parchment, and paper, stamped or marked, Be it further enacted*, That when any person or persons shall deposit any vellum, parchment or paper, at the office of any supervisor, accompanying the same with a list, which shall specify the number and denomination of the stamps or marks which are to be thereto affixed, it shall be the duty of the said supervisor to transmit the same to the stamp-office at the seat of Government, where such paper, parchment, and vellum shall be properly marked or stamped, and forthwith sent back to the said supervisor, who shall thereupon collect the duties and deliver the vellum, parchment, and paper, pursuant to the order of the person from whom it was received.

SEC. 10. *And be it further enacted*, That all vellum, parchment, and paper, to be stamped or marked at the said office, shall, before it is delivered for sale, use, or distribution, be carried from the said office to the office of the commissioner of the revenue, and be there counter-stamped or marked, under the direction of the said commissioner, and in such manner as the Secretary of the Treasury shall devise and direct; and after being so counter-stamped, or marked, shall be returned to the office of the Superintendent of Stamps, to be by him distributed according to the true intent and meaning of this act; of all which vellum, parchment, and paper, so sent to be counter-stamped or marked, and so returned to the office of the superintendent aforesaid, an account shall be kept by the commissioner of the revenue, and from time to time returned to the proper officers of the Treasury Department.

SEC. 11. *And be it further enacted*, That if any person or persons, with intent to defraud the United States of any of the duties or duty laid by the act, entitled "An act laying duties on stamped vellum, parchment, and paper," or by any act or acts for amending the same, shall counterfeit or forge, or shall cause or procure to be counterfeited or forged, or shall knowingly or wilfully aid or assist in counterfeiting or forging any stamp, counter-stamp, or mark, which shall be provided or made in pursuance of this act, or shall counterfeit or resemble, or shall knowingly and wilfully aid or assist in counterfeiting or resembling, the impression of any such stamp, counter-stamp, or mark, upon any vellum, parchment, or paper, or shall knowingly or wilfully utter, vend, or sell, or offer in evidence in any court of justice, any vellum, parchment, or paper, with such counterfeit mark or impression thereon, or shall privately or fraudulently use any stamp, counter-stamp, or mark, directed or allowed to be used by this act, then every such person so offending, and being thereof convicted in due form of law, shall be adjudged guilty of a misdemeanor, and be subject to be fined in any sum not exceeding one thousand dollars, and imprisoned for any time not exceeding seven years.

Approved, April 23, 1800.

Acts of Congress.

An Act to alter and to establish sundry Post Roads.

Be it enacted, &c., That the following post roads be discontinued, viz: From Washington, to Petersburg, in Georgia; from Augusta, by Robinson's, at the White Ponds, and Gillet's Mills, to Coosawhatchie; from Charlotte, by Lincolnton, to Statesville, North Carolina; from Chester Court-house to Spartan Court-house; from Fayetteville, by Lumberton, to Cheraw Court-house; from Moffat's store to Danville; from Culpepper Court-house, to Orange Court-house; from Leesburg, to Fauquier Court-house; from Tappahannock, by Richmond Court-house, and Westmoreland Court-house, to Kinsale; from Prince Edward Court-house, to Lynchburg; from Easton, by New Market, to Vienna; from Allen's Fresh, by Hoe's Ferry, to Port Conway; from Bladensburg, to Upper Marlborough; from Harrisburg, by Petersburg, Millerstown, Thompsonstown, Mifflintown, Lewistown, Huntingdon, Alexandria, Center Furnace, Bellefont, Milesburg, Aaronsburg, Mifflinsburg, Lewisburgh, Northumberland and Sunbury, to Harrisburg; from Easton, to Sussex Court-house; from New Brunswick to New Germantown; from Washington, in Pennsylvania, to Wheeling, in Virginia; from Old Fort Schuyler, by Cincinnati, to Oxford; from Vergennes, by Bason Harbaur, to Plattsburgh; from Rome to Rotterdam; from Boston, by Taunton, to New Bedford; from Camden, by Lancaster, South Carolina, Charlotte, North Carolina, and Lincolnton, to Statesville, North Carolina; from Fayetteville, to Pittsburg, in Chatham county; from Halifax Court-house, Virginia, by Danville, to Caswell Court-house; from Liberty, by Rocky Mount, to Martinville; from Louisburg, by Nash Court-house, to Tarborough; from Newbern, by Beaufort and Swansborough, to Newbern; from Ruthersfordton to Spartanburg; from Springfield, Massachusetts, to Northampton; from Standish, in Maine, by Flint's town, and Fryberg, to Conway, Tamworth, and Sandwich, in New Hampshire; from Suffolk, by South Quay, to Murfreesborough; from Wilmington, North Carolina, to Georgetown, South Carolina; from Petersburg, by Sussex Court-house, and Southampton Court-house, to South Quay.

SEC. 2. *And be it further enacted,* That the following be established as post roads, viz:

In Georgia—From Augusta, to Petersburg, by Lincoln Court-house; from Franklin Court-house to Jackson Court-house; from Georgetown to Warrenton; from Louisville to Saundersville; from Washington, to Oglethorpe Court-house.

In South Carolina—From Augusta, Georgia, by the Three Runs, to Coosawatchie; the post road from Edgefield Court-house, to Augusta, shall pass through Campbelltown; from Georgetown, by Willtown, Greenville, and Chatham, to Richmond Court-house, North Carolina; from Statesburg, by Salem Court-house, and Kingstree, to Willtown; from Columbia to Clarendon Court-house; from Chester Court-house, by York Court-house, Pinckneyville, and Union Court-house, to Spartanburg.

In North Carolina—From Washington to Bath,

and from thence by Woodstock, to Hyde Court-house; from Fayetteville, by M'Fall's, and Winfield's, to Cheraw Court-house, South Carolina; from Fayetteville, by Lumberton and Barefield's Mill, to Willtown, South Carolina; from Lumberton, by Elizabethtown, to the house of John Andrews, or William H. Beaty, on South River; from Fayetteville to Wilmington; from Charlotte, by Lincolnton, and Morganton, Buncomb Court-house, the Warm Springs, and thence to Greenville, in Tennessee; the post road from Salem, to Salisbury, shall pass through Lexington; the post road from Raleigh, to Newbern, shall pass through the county of Davie; the post road from Moore Court-house to Salisbury, to pass by the new or old Court-house of Randolph, as may be found most eligible; from Rockford, to Grayson Court-house, Virginia.

In Tennessee—From Knoxville to Marysville; from Sullivan Court-house, by Hawkins Court-house, and Orr's tavern, to Knoxville; from Nashville, by Robertson Court-house, and Montgomery Court-house, to Palmyra; from Nashville, to Natchez, in the Mississippi Territory; the post road which now passes from Abingdon, in Virginia, to Knoxville, in Tennessee, shall hereafter pass by Sullivan Court-house, Jonesborough, Greenville. Cheek's cross roads, and Jefferson Court-house.

In Kentucky—From Frankfort, by Versailles, and Richmond, to Orr's tavern, Tennessee; from Danville, by Standford, to Lancaster; from Frankfort, by Clarke Court-house, Montgomery Court-house, and Fleming Court-house, to Washington; from Frankfort, by Scott Court-house, Harrison Court-house, Pendleton Court-house, and Campbell Court-house, to Cincinnati, Northwestern Territory; from Frankfort, by Shelbyville, Bardstown, Hardin Court-house, and Logan Court-house, to Robinson Court-house, in Tennessee; the post road from Washington, in Cincinnati, shall pass by Bracken Court-house; the post road from Beardstown, to Louisville, shall pass through Shepherdsville; from Logan Court-house, by Christiana Court-house, Livingston Court-house, Henderson Court-house, to Muhlenberg Court-house; and from Logan Court-house, by Warren Court-house, and Barren Court-house, to Green Court-house.

In the Northwestern Territory—From Washington, Kentucky, by Manchester, in Northwestern Territory, to Chillicothe; from Louisville, Kentucky, to Vincennes; from Zanes, on the Muskingum, to Marietta.

In Virginia—From Culpeper Court-house, by Madison Court-house, to Orange Court-house; from Fredericksburg, by Spotsylvania Court-house, and Louisa Court-house, to Columbia; from Fredericksburg, by King George Court-house, Mattox bridge, Leadstown, Westmoreland Court-house on Templeman's cross-roads, Richmond Court-house, and Farnham, to Kinsale; from Fredericksburg, by Rogers's mills, Child's store, Chesterfield, Oxford, and Crew's store, to Goochland Court-house; from King and Queen Court-house, to Shackleford's store; from Gloucester

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Court-house, to Matthews Court-house; from Moorfields, by Franklin, to Bath Court-house; from Richmond, by Coles's, in Chesterfield county, Janetoe bridge, Amelia Court-house, Pridesville, and Ligontown, to Jamestown; from Petersburg, by Amelia Court-house, Nottaway Court-house, Bibb's ferry, on Staunton river, to Halifax Court-house; from Alexandria, by Centreville, Middleburg, Paris, and Millwood, to Winchester; from Cartersville, by New Canton, Buckingham Court-house, and Bent Creek, to Lynchburg; from Romney, by Springfield and Frankfort, to Cumberland, in Maryland; from Centerville, by the Red House, to Fauquier Court-house; from Washington, Pennsylvania, by Charlestown or Brooke Court-house, in Virginia, to Wheeling; the post road from Alexandria to Leesburg, shall pass through Matildaville; and the post road from Leesburg, to Shepherdstown, shall pass through Charlestown, in the county of Berkley; the post road from Sweetspring, to Greenbrier Court-house, shall pass by Monroe Court-house; from Greenbrier Court-house, to Kanawha Court-house; from Lexington, direct to Cabell'sburg; from Mecklenburg Court-house, the mail shall return by Christian's store, at Coxe's, to Lunenburg Court-house, and Edmond's store, to Gholson's.

In Maryland—From Baltimore, by Reisters-town, Westminster, Taneytown, and Emmitsburg, to Fairfield, Pennsylvania; from Baltimore, by Libertytown, to Fredericktown; and from Fredericktown, by Harper's Ferry, to Charlestown, in Berkeley county, Virginia; from Port Tobacco, by the Top of the Hill, to Nanjemoy; from Leonardtown, by the Great Mill, to the Ridge; from Washington, to Upper Marlborough; from Washington, by Queen Ann, to Annapolis; from Easton, by Cambridge and New Market, to Vienna; from Easton, by Hillsborough, Denton, and Greenborough, to Whitelysburg.

In Pennsylvania—From Lancaster, by Elizabethtown, and Middletown, to Harrisburgh, Sunbury, and Northumberland; from Lancaster, to New Holland; from Harrisburgh, by Clark's ferry, Millerstown, Thompsonstown, Mifflintown, Lewistown, and Huntingdon, to Alexandria; from Lewistown, by Mifflintown, Aaronsburg, Milesburg, and Bellefont, to Center Furnace; from Lewistown, by Muncey, and Milton, to Williamsport; from Northumberland, to Berwick, and thence by Catawassee, to Northumberland; from Wilkesbarre, by Wyalusing, to Athens; from Union, to New Geneva; from Pittsburg, by Franklin, Meadsville, and Le Beuf, to Presqu'isle; from Washington, to Waynesburg.

In New York—From Hudson, by Katskill, Harpersfield, Ouliot, Unadilla, and Union, to Athens, Pennsylvania; from Athens, Pennsylvania, by Newtown, Painted Post, and Bath, to Canandaraqua; from Utica, by New Hartford, Hamilton, and Sherbourne, to Oxford; from Cooperstown, on the State road, to Scipio; from Vergennes, Vermont, by Charlotte, Vermont, and Peru, to Plattsburg.

In New Jersey—From Easton, Pennsylvania, by Belvidere, and Johnsonburg, to Newtown;

from New Brunswick, by Somerset Court-house, and Pluckemin, to New Germanton; from Trenton, by Bordentown, Slabtown, Mount Holly, Moorestown, and Haddenfield, to Philadelphia.

In Connecticut—From Fairfield, by Trumbull, Huntington, Newtown, and Brookfield, to New Milford.

In Massachusetts—From Boston, by Bridgewater, and Taunton, to New Bedford; from New Bedford, by Rochester, and Wareham, to Sandwich; from Hanover, by Scituate, Marshfield, and Duxbury, to Kingston; from Truro to Provincetown; from Billerica, by Patucket bridge, to Dracut, and Hovey's tavern, to Pelham, and Nottingham West, in New Hampshire; from Concord, by Groton, New Ipswich, and Jaffray, to Marlborough, New Hampshire.

In Vermont—From Westminster, by Bellows Falls, through Rockingham, Chester, and Cavendish, to Rutland; from Newbury to Danville; from Burlington, through St. Alban's, to Hyegate.

In New Hampshire—From Exeter, by Nottingham, to Concord; from Salisbury, through Grafton, to Hanover.

In Maine—From Portland, by Windham, Watford, Buckfield, and Turner, to Portland; from Bucktown to Edenton.

SEC. 3. *And be it further enacted*, That nothing contained in this act shall be construed so as to affect any existing contracts for carrying the mail.

Approved, April 23, 1800.

An Act for the better government of the Navy of the United States.

Be it enacted, &c., That from and after the first day of June next, the following rules and regulations be adopted and put in force, for the government of the navy of the United States.

ART. 1. The commanders of all ships and vessels of war belonging to the navy, are strictly enjoined and required to show in themselves a good example of virtue, honor, patriotism, and subordination; and be vigilant in inspecting the conduct of all such as are placed under their command; and to guard against, and suppress, all dissolute and immoral practices, and to correct all such as are guilty of them, according to the usage of the sea service.

ART. 2. The commanders of all ships and vessels in the navy, having chaplains on board, shall take care that divine service be performed in a solemn, orderly, and reverent manner twice a day, and a sermon preached on Sunday, unless bad weather, or other extraordinary accidents prevent it; and that they cause all, or as many of the ship's company as can be spared from duty, to attend at every performance of the worship of Almighty God.

ART. 3. Any officer, or other person in the navy, who shall be guilty of oppression, cruelty, fraud, profane swearing, drunkenness, or any other scandalous conduct, tending to the destruction of good morals, shall, if an officer, be cashiered, or suffer such other punishment as a court-martial shall adjudge; if a private, shall be put in irons,

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or flogged, at the discretion of the captain, not exceeding twelve lashes; but if the offence require severer punishment, he shall be tried by a court-martial, and suffer such punishment as said court shall inflict.

ART. 4. Every commander or other officer who shall, upon signal for battle, or on the probability of an engagement, neglect to clear his ship for action, or shall not use his utmost exertions to bring his ship to battle, or shall fail to encourage, in his own person, his inferior officers and men to fight courageously, such offender shall suffer death, or such other punishment as a court martial shall adjudge; or any officer neglecting, on sight of any vessel or vessels of an enemy, to clear his ship for action, shall suffer such punishment as a court martial shall adjudge: and if any person in the navy shall treacherously yield, or pusillanimously cry for quarters, he shall suffer death, on conviction thereof, by a general court martial.

ART. 5. Every officer or private who shall not properly observe the orders of his commanding officer, or shall not use his utmost exertions to carry them into execution, when ordered to prepare for, join in, or when actually engaged in battle; or shall, at such time, basely desert his duty or station, either then, or while in sight of an enemy, or shall induce others to do so, every person so offending shall, on conviction thereof by a general court martial, suffer death or such other punishment as the said court shall adjudge.

ART. 6. Every officer or private who shall, through cowardice, negligence, or disaffection in time of action, withdraw from, or keep out of battle, or shall not do his utmost to take or destroy every vessel which it is his duty to encounter, or shall not do his utmost endeavor to afford relief to ships belonging to the United States, every such offender shall, on conviction thereof by a general court martial, suffer death, or such other punishment as the said court shall adjudge.

ART. 7. The commanding officer of every ship or vessel in the navy, who shall capture or seize upon any vessel as a prize, shall carefully preserve all the papers and writings found on board, and transmit the whole of the originals un mutilated to the judge of the district to which such prize is ordered to proceed, and shall transmit to the Navy Department, and to the agent appointed to pay the prize money, complete lists of the officers and men entitled to a share of the capture, inserting therein the quality of every person rating, on pain of forfeiting his whole share of the prize money resulting from such capture, and suffering such further punishment as a court martial shall adjudge.

ART. 8. No person in the navy shall take out of a prize, or vessel seized as a prize, any money, plate, goods, or any part of her rigging, unless it be for the better preservation thereof, or absolutely necessary for the use of any of the vessels of the United States, before the same shall be adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in and judgment passed thereon, upon pain that every person offending herein shall for-

feit his share of the capture, and suffer such further punishment as a court martial, or the court of admiralty in which the prize is adjudged, shall impose.

ART. 9. No person in the navy shall strip of their clothes, or pillage, or in any manner maltreat persons taken on board a prize, on pain of such punishment as a court martial shall adjudge.

ART. 10. No person in the navy shall give, hold, or entertain any intercourse or intelligence to or with any enemy or rebel, without leave from the President of the United States, the Secretary of the Navy, the commander-in-chief of the fleet, or the commander of a squadron; or, in case of a vessel acting singly, from his commanding officer, on pain of death, or such other punishment as a court martial shall adjudge.

ART. 11. If any letter or message from an enemy or rebel, be conveyed to any officer or private of the navy, and he shall not, within twelve hours, make the same known, having opportunity so to do, to his superior or commanding officer; or if any officer commanding a ship or vessel, being acquainted therewith, shall not, with all convenient speed, reveal the same to the commander-in-chief of the fleet, commander of a squadron, or other proper officer whose duty it may be to take cognizance thereof, every such offender shall suffer death, or such other punishment as a court martial shall adjudge.

ART. 12. Spies, and all persons who shall come or be found in the capacity of spies, or who shall bring or deliver any seducing letter or message from an enemy or rebel, or endeavor to corrupt any person in the navy to betray his trust, shall suffer death, or such other punishment as a court martial shall adjudge.

ART. 13. If any person in the navy shall make or attempt to make any mutinous assembly, he shall, on conviction thereof by a court martial, suffer death; and if any person as aforesaid shall utter any seditious or mutinous words, or shall conceal or connive at any mutinous or seditious practices, or shall treat with contempt his superior, being in the execution of his office; or, being witness to any mutiny or sedition, should not do his utmost to suppress it, he shall be punished at the discretion of a court martial.

ART. 14. No officer or private in the navy shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court martial shall inflict.

ART. 15. No person in the navy shall quarrel with any other person in the navy, nor use provoking or reproachful words, gestures, or menaces, on pain of such punishment as a court martial shall adjudge.

ART. 16. If any person in the navy shall desert to an enemy, or rebel, he shall suffer death.

ART. 17. If any person in the navy shall desert, or shall entice others to desert, he shall suffer death, or such other punishment as a court martial shall adjudge; and if any officer, or other person belonging to the navy, shall receive or entertain any

deserter from any other vessel of the navy, knowing him to be such, and shall not, with all convenient speed, give notice of such deserter to the commander of the vessel to which he belongs, or to the commander-in-chief, or to the commander of the squadron, he shall, on conviction thereof, be cashiered, or be punished at the discretion of a court martial. All offences committed by persons belonging to the navy while on shore, shall be punished in the same manner as if they had been committed at sea.

ART. 18. If any person in the navy shall knowingly make or sign, or shall aid, abet, direct, or procure the making or signing of any false muster, or shall execute, or attempt, or countenance any fraud against the United States, he shall, on conviction, be cashiered, and rendered forever incapable of any future employment in the service of the United States, and shall forfeit all the pay and subsistence due him, and suffer such other punishment as a court martial shall inflict.

ART. 19. If any officer, or other person in the navy, shall, through inattention, negligence, or any other fault, suffer any vessel of the navy to be stranded, or run upon rocks or shoals, or hazarded, he shall suffer such punishment as a court martial shall adjudge.

ART. 20. If any person in the navy shall sleep upon his watch, or negligently perform the duty assigned him, or leave his station before regularly relieved, he shall suffer death, or such punishment as a court martial shall adjudge; or, if the offender be a private, he may, at the discretion of the captain, be put in irons, or flogged, not exceeding twelve lashes.

ART. 21. The crime of murder, when committed by any officer, seaman, or marine, belonging to any public ship or vessel of the United States, without the territorial jurisdiction of the same, may be punished with death by the sentence of a court martial.

ART. 22. The officers and privates of every ship or vessel, appointed as convoy to merchant or other vessels, shall diligently and faithfully discharge the duties of their appointment, nor shall they demand or exact any compensation for their services, nor maltreat any of the officers or crews of such merchant or other vessels, on pain of making such reparation as a court of admiralty may award, and of suffering such further punishment as a court martial shall adjudge.

ART. 23. If any commander or other officer shall receive or permit to be received, on board his vessel, any goods or merchandise, other than for the sole use of his vessel, except gold, silver, or jewels, and except the goods or merchandise of vessels which may be in distress, or shipwrecked, or in imminent danger of being shipwrecked, in order to preserve them for their owner, without orders from the President of the United States or the Navy Department, he shall, on conviction thereof, be cashiered, and be incapacitated forever afterwards, for any place or office in the navy.

ART. 24. If any person in the navy shall waste, embezzle, or fraudulently buy, sell, or receive any

ammunition, provisions, or other public stores; or if any officer or other person shall, knowingly, permit, through design, negligence, or inattention, any such waste, embezzlement, sale or receipt, every such person shall forfeit all the pay and subsistence then due him, and suffer such other punishment as a court martial shall direct.

ART. 25. If any person in the navy shall unlawfully set fire to, or burn, any kind of public property, not then in the possession of an enemy, pirate, or rebel, he shall suffer death: And if any person shall, in any other manner, destroy such property, or shall not use his best exertions to prevent the destruction thereof by others, he shall be punished at the discretion of a court martial.

ART. 26. Any theft not exceeding twenty dollars may be punished at the discretion of the captain, and above that sum, as a court martial shall direct.

ART. 27. If any person in the navy shall, when on shore, plunder, abuse, or maltreat, any inhabitant, or injure his property in any way, he shall suffer such punishment as a court martial shall adjudge.

ART. 28. Every person in the navy shall use his utmost exertions to detect, apprehend, and bring to punishment, all offenders, and shall at all times aid and assist all persons appointed for this purpose, on pain of such punishment as a court martial shall adjudge.

ART. 29. Each commanding officer shall, whenever a seaman enters on board, cause an accurate entry to be made in the ship's books, of his name, time, and term of service; and, before sailing, transmit to the Secretary of the Navy a complete list or muster roll of the officers and men under his command, with the date of their entering, time and terms of their service, annexed; and shall cause similar lists to be made out on the first day of every second month, to be transmitted to the Secretary of the Navy, as opportunities shall occur; accounting, in such lists or muster rolls, for any casualties which may have taken place since the last list or muster roll. He shall cause to be accurately minuted, on the ship's books, the names of, and times at which any death or desertion may occur; and in case of death, shall take care that the purser secure all the property of the deceased for the benefit of his legal representative or representatives. He shall cause frequent inspections to be made into the condition of the provision, and use every precaution for its preservation. He shall, whenever he orders officers and men to take charge of a prize, and proceed to the United States, and whenever officers and men are sent from his ship for whatever cause, take care that each man be furnished with a complete statement of his account, specifying the date of his enlistment, and the period and terms of his service; which account shall be signed by the commanding officer and purser. He shall cause the rules for the government of the navy to be hung up in some public part of the ship, and read once a month to his ship's company. He shall cause a convenient place to be set apart for sick or disabled men, to which he shall have them removed, with their

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hammocks and bedding, when the surgeon shall so advise, and shall direct that some of the crew attend them and keep the place clean; and, if necessary, shall direct that cradles, and buckets with covers, be made for their use: And when his crew is finally paid off, he shall attend in person, or appoint a proper officer, to see that justice be done to the men, and to the United States, in the settlement of the accounts: Any commanding officer offending herein, shall be punished at the discretion of a court martial.

ART. 30. No commanding officer shall, of his own authority, discharge a commissioned or warrant officer, nor strike, nor punish him otherwise than by suspension or confinement, nor shall he, of his own authority, inflict a punishment on any private beyond twelve lashes with a cat-of-nine tails, nor shall he suffer any wired, or other than a plain, cat-of-nine tails, to be used on board his ship; nor shall any officer who may command by accident, or in the absence of the commanding officer (except such commander be absent for a time by leave) order or inflict any other punishment than confinement, for which he shall account on the return of such absent commanding officer. Nor shall any commanding officer receive on board any petty officers or men turned over from any other vessel to him, unless each of such officers and men produce to him an account, signed by the captain and purser of the vessel from which they came, specifying the date of such officer's or man's entry, the period and terms of service, the sums paid, and the balance due him, and the quality in which he was rated on board such ship. Nor shall any commanding officer, having received any petty officer or man as aforesaid, rate him in a lower or worse station than that in which he formerly served: Any commanding officer offending herein, shall be punished at the discretion of a court martial.

ART. 31. Any master-at-arms, or other person of whom the duty of master-at-arms is required, who shall refuse to receive such prisoners as shall be committed to his charge, or, having received them, shall suffer them to escape, or dismiss them without orders from proper authority, shall suffer in such prisoners' stead, or be punished otherwise, at the discretion of a court martial.

ART. 32. All crimes committed by persons belonging to the navy, which are not specified in the foregoing articles shall be punished according to the laws and customs in such cases at sea.

ART. 33. All officers not holding commissions or warrants, or who are not entitled to them, except such as are temporarily appointed to the duties of a commissioned or warrant officer, are deemed petty officers.

ART. 34. Any person entitled to wages or prize money, may have the same paid to his assignee, provided the assignment be attested by the captain and purser; and in case of the assignment of wages, the power shall specify the precise time they commence. But the commander of every vessel is required to discourage his crew from selling any part of their wages or prize money, and never to attest any power of attorney, until he is satisfied

that the same is not granted in consideration of money given for the purchase of wages or prize money.

NAVAL GENERAL COURTS MARTIAL.

ART. 35. General courts martial may be convened as often as the President of the United States, the Secretary of the Navy, or the commander-in-chief of the fleet, or commander of a squadron, while acting out of the United States, shall deem it necessary: *Provided*, That no general court martial shall consist of more than thirteen, nor less than five members; and as many officers shall be summoned on every such court as can be convened without injury to the service, so as not to exceed thirteen, and the senior officer shall always preside, the others ranking agreeably to the date of their commissions; and in no case, where it can be avoided without injury to the service, shall more than one-half the members, exclusive of the President, be junior to the officer to be tried.

ART. 36. Each member of the court, before proceeding to the trial, shall take the following oath, or affirmation, which the judge advocate, or person officiating as such, is hereby authorized to administer:

"I, A B, do swear (or affirm) that I will truly try, without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the navy, and my own conscience; and that I will not by any means divulge or disclose the sentence of the court, until it shall have been approved by the proper authority, nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

This oath or affirmation being duly administered, the President is authorized and required to administer the following oath or affirmation to the judge advocate, or person officiating as such:

"I, A B, do swear (or affirm) that I will keep a true record of the evidence given to, and the proceedings of, this court; nor will I divulge or by any means disclose the sentence of the court until it shall have been approved by the proper authority; nor will I at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

ART. 37. All testimony given to a general court martial shall be on oath or affirmation, which the President of the court is hereby authorized to administer, and if any person shall refuse to give his evidence as aforesaid, or shall prevaricate, or shall behave with contempt to the court, it shall and may be lawful for the court to imprison such offender at their discretion; provided that the imprisonment in no case shall exceed two months: And every person who shall commit wilful perjury, on examination on oath or affirmation before such court, or who shall corruptly procure, or suborn any person to commit such wilful perjury, shall and may be prosecuted by indictment or in-

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formation in any court of justice of the United States, and shall suffer such penalties as are authorized by the laws of the United States in case of perjury or the subornation thereof. And in every prosecution for perjury or the subornation thereof, under this act, it shall be sufficient to set forth the offence charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought or intended to be brought before the said court.

ART. 38. All charges, on which an application for a general court martial is founded, shall be exhibited in writing to the proper officer, and the person demanding the court shall take care that the person accused be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest, nor shall any other charge or charges, than those so exhibited, be urged against the person to be tried before the court, unless it appear to the court that intelligence of such charge had not reached the person demanding the court, when the person so to be tried was put under arrest, or that some witness material to the support of such charge, who was at that time absent, can be produced; in which case, reasonable time shall be given to the person to be tried to make his defence against such new charge. Every officer so arrested is to deliver up his sword to his commanding officer, and to confine himself to the limits assigned him, under pain of dismission from service.

ART. 39. When the proceedings of any general court martial shall have commenced, they shall not be suspended or delayed on account of the absence of any of the members, provided five or more be assembled; but the court is enjoined to sit from day to day, Sundays excepted, until sentence be given: And no member of the said court shall, after the proceedings are begun, absent himself therefrom, unless in case of sickness, or orders to go on duty from a superior officer, on pain of being cashiered.

ART. 40. Whenever a court martial shall sentence any officer to be suspended, the court shall have power to suspend his pay and emoluments for the whole, or any part of the time of his suspension.

ART. 41. All sentences of courts martial, which shall extend to the loss of life, shall require the concurrence of two thirds of the members present; and no such sentence shall be carried into execution, until confirmed by the President of the United States; or, if the trial take place out of the United States, until it be confirmed by the commander of the fleet or squadron: All other sentences may be determined by a majority of votes, and carried into execution on confirmation of the commander of the fleet, or officer ordering the court, except such as go to the dismission of a commissioned or warrant officer, which are first to be approved by the President of the United States.

A court martial shall not, for any one offence not capital, inflict a punishment beyond one hundred lashes.

ART. 42. The President of the United States,

or, when the trial takes place out of the United States, the commander of the fleet or squadron, shall possess full power to pardon any offence committed against these articles, after conviction, or to mitigate the punishment decreed by a court martial.

SEC. 2. ARTICLE 1. *And be it further enacted,* That courts of inquiry may be ordered by the President of the United States, the Secretary of the Navy, or the commander of a fleet or squadron, provided such court shall consist of not more than three members who shall be commissioned officers, and a judge advocate, or person to do duty as such; and such courts shall have power to summon witnesses, administer oaths, and punish contempt, in the same manner as courts martial. But such court shall merely state facts, and not give their opinion, unless expressly required so to do in the order for convening; and the party, whose conduct shall be the subject of inquiry, shall have permission to cross-examine all the witnesses.

ART. 2. The proceedings of courts of inquiry shall be authenticated by the signature of the president of the court and judge advocate, and shall in all cases not capital, or extending to the dismission of a commissioned or warrant officer, be evidence before a court martial, provided oral testimony cannot be obtained.

ART. 3. The judge advocate, or person officiating as such, shall administer to the members the following oath or affirmation:

"You do swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you, without partiality or prejudice."

After which, the president shall administer to the judge advocate, or person officiating as such, the following oath or affirmation:

"You do swear (or affirm) truly to record the proceedings of this court, and the evidence to be given in the case in hearing."

SEC. 3. *And be it further enacted,* That in all cases, where the crews of the ships or vessels of the United States shall be separated from their vessels, by the latter being wrecked, lost, or destroyed, all the command, power, and authority, given to the officers of such ships or vessels, shall remain and be in full force, as effectually as if such ship or vessel were not so wrecked, lost, or destroyed, until such ship's company be regularly discharged from, or ordered again into, the service, or until a court martial shall be held to inquire into the loss of such ship or vessel; and if by the sentence of such court, or other satisfactory evidence, it shall appear that all or any of the officers and men of such ship's company did their utmost to preserve her, and after the loss thereof behaved themselves agreeably to the discipline of the navy, then the pay and emoluments of such officers and men, or such of them as shall have done their duty as aforesaid, shall go on until their discharge or death; and every officer or private who shall, after the loss of such vessel, act contrary to the discipline of the navy, shall be punished at the discretion of a court martial, in the same manner as if such vessel had not been so lost.

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SEC. 4. *And be it further enacted*, That all the pay and emoluments of such officers and men, of any of the ships or vessels of the United States, taken by an enemy, who shall appear by the sentence of a court martial, or otherwise, to have done their utmost to preserve and defend their ship or vessel, and, after the taking thereof, have behaved themselves obediently to their superiors, agreeably to the discipline of the navy, shall go on and be paid them until their death, exchange, or discharge.

SEC. 5. *And be it further enacted*, That the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the United States and the officers and men making the capture.

SEC. 6. *And be it enacted*, That the prize money belonging to the officers and men, shall be distributed in the following manner:

1. To the commanding officers of fleets, squadrons, or single ships, three-twentieths, of which the commanding officer of the fleet or squadron shall have one twentieth, if the prize be taken by a ship or vessel acting under his command, and the commander of single ships, two twentieths; but where the prize is taken by a ship acting independently of such superior officer, the three-twentieths shall belong to her commander.

2. To sea lieutenants, captains of marines, and sailing masters, two twentieths; but where there is a captain, without a lieutenant of marines, these officers shall be entitled to two-twentieths and one-third of a twentieth, which third, in such case, shall be deducted from the share of the officers mentioned in article No. 3, of this section.

3. To chaplains, lieutenants of marines, surgeons, pursers, boatswains, gunners, carpenters, and master's mates, two-twentieths.

4. To midshipmen, surgeon's mates, captain's mates, carpenter's mates, ships' stewards, sailmakers, masters at arms, armorers, cockswains, and coopers, three-twentieths and an half.

5. To gunner's yeomen, boatswain's yeomen, quarter masters, quarter gunners, sailmaker's mates, sergeants and corporals of marines, drummers, fifers and extra petty officers, two-twentieths and an half.

6. To seamen, ordinary seamen, marines, and all other persons doing duty on board, seven-twentieths.

7. Whenever one or more public ships or vessels are in sight at the time any one or more ships are taking a prize or prizes, they shall all share equally in the prize or prizes, according to the number of men and guns on board each ship in sight.

No commander of a fleet or squadron shall be entitled to receive any share of prizes taken by vessels not under his immediate command; nor of such prizes as may have been taken by ships or vessels intended to be placed under his command, before they have acted under his immediate or-

ders; nor shall a commander of a fleet or squadron, leaving the station where he had the command, have any share in the prizes taken by ships left on such station, after he has gone out of the limits of his said command.

SEC. 7. *And be it further enacted*, That a bounty shall be paid by the United States, of twenty dollars for each person on board any ship of an enemy at the commencement of an engagement, which shall be sunk or destroyed by any ship or vessel belonging to the United States of equal or inferior force, the same to be divided among the officers and crew in the same manner as prize money.

SEC. 8. *And be it further enacted*, That every officer, seamen, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half his monthly pay.

SEC. 9. *And be it further enacted*, That all money accruing, or which has already accrued to the United States from the sale of prizes, shall be and remain for ever a fund for the payment of pensions and half pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same, and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit by their bravery, or long and faithful services, the gratitude of their country.

SEC. 10. *And be it further enacted*, That the said fund shall be under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby authorized to receive any sums to which the United States may be entitled from the sale of prizes, and employ and invest the same, and the interest arising therefrom, in any manner which a majority of them may deem most advantageous: And it shall be the duty of the said commissioners to lay before Congress, annually, in the first week of their session, a minute statement of their proceedings relative to the management of said fund.

SEC. 11. *And be it further enacted*, That the act passed the second day of March, in the year one thousand seven hundred and ninety-nine, entitled "An act for the government of the navy of the United States," from and after the first day of June next, shall be, and hereby is, repealed.

Approved, April 23, 1800.

An Act respecting the Mint.

Be it enacted, &c., That a sum equal to the amount of the cents and half cents, which shall have been coined at the Mint, and delivered to the Treasurer of the United States, subsequent to the third day of March, in the year one thousand seven hundred and ninety-nine, shall be, and the same is hereby, appropriated for the purchase of copper, for the further coinage of cents and half

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cents; and that a sum equal to the amount of cents and half cents, which shall be hereafter coined at the Mint, and delivered to the Treasurer of the United States in any one year, shall be, and the same is hereby, appropriated for the annual purchase of copper, for the coinage of cents and half cents, which sums shall be payable out of any moneys in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That there shall be retained from every deposit in the Mint, of gold or silver bullion below the standard of the United States, such sum as shall be equivalent to the expense incurred in refining the same, and an accurate account of such expense on every such deposit shall be kept, and of the sums retained on account of the same, which shall be accounted for by the Treasurer of the Mint, with the Treasury of the United States.

Approved, April 24, 1800.

An Act to continue in force the act in addition to the act for the punishment of certain crimes against the United States.

Be it enacted, &c., That an act passed on the fifth day of June, one thousand seven hundred and ninety-four, entitled "An act in addition to the act for the punishment of certain crimes against the United States," and which by the tenth section thereof was limited to continue in force for and during the term of two years from passing the same, and from thence to the end of the next session of Congress thereafter, and no longer; and which said act was, by an act passed on the second day of March, one thousand seven hundred and ninety-seven, entitled "An act to continue in force for a limited time, the act in addition to the act for the punishment of certain crimes against the United States," further continued in force for two years from the said second day of March, one thousand seven hundred and ninety-seven, and from thence to the end of the next session of Congress thereafter, shall continue and be in force without limitation of time, anything in any act to the contrary notwithstanding.

Approved, April 24, 1800.

An Act to make further provision for the removal and accommodation of the Government of the United States.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized and empowered to direct the various offices belonging to the Executive departments of the United States, to be removed to the City of Washington, at any time that he shall judge proper, after the adjournment of the present session of Congress, and before the time heretofore appointed by law for such removal.

SEC. 2. *And be it further enacted*, That for the purpose of providing furniture for the house erected in the City of Washington, for the accommodation of the President of the United States, a sum not exceeding fifteen thousand dollars be expended,

under the direction of the Heads of the several departments of State, of the Treasury, of War, and of the Navy.

SEC. 3. *And be it further enacted*, That for the suitable accommodation of Congress, at the City of Washington, the Secretaries of the four Executive departments, or any three of them, shall be, and hereby are, authorized and directed to cause suitable furniture to be forthwith provided for the apartments, which are to be occupied in the Capitol, at the said city, by the two Houses, respectively, and for the offices and committee rooms of each; and to cause the said apartments, offices, and committee rooms, to be furnished in a suitable manner, so as to be ready for the reception of Congress on the day fixed by law for the removal of the Government to the said city; and that for defraying the expenses incident to the furnishing of the said apartments, offices, and committee rooms, and to the removal of the books, papers, and records, belonging to the said offices, respectively, there shall be, and hereby is, appropriated a sum not exceeding nine thousand dollars.

SEC. 4. *And be it further enacted*, That for the greater convenience of the members of both Houses of Congress in attending their duty in the said City of Washington, and the greater facility of communication between the various Departments and offices of the Government, there shall be made footways in the said city, in suitable places and directions; and that the said footways shall be made by the commissioners of the said city, under the direction of the Secretaries of the four Executive departments of the United States, who, or any three of whom, shall forthwith take order therefor, and in such manner, at such places, and in such directions, as they or any three of them shall judge most proper for the purposes aforesaid, and shall appoint; and that if the said Secretaries, or any three of them, shall find, on examination, that there is not in the hands of the said commissioners a sum sufficient for making the said footways, over and above what may have been destined by the said commissioners, or may, in the opinion of the said Secretaries, or any three of them, be necessary for the accomplishment of other objects necessary for the accommodation of the Government, or its removal as aforesaid, then the said Secretaries, or any three of them, shall be, and hereby are, authorized and required to draw out of the Treasury of the United States, and apply to the purpose of making the said footways, any sum which may be necessary therefor, not exceeding ten thousand dollars; which sum is hereby appropriated for the said purpose. And all the lots in the City of Washington, now vested in the said commissioners, or in trustees, in any manner for the use of the United States, and now remaining unsold, excepting those set apart for public purposes, shall be, and are hereby, declared and made chargeable with the repayment of the said sum of ten thousand dollars, which shall be advanced in pursuance of this act, and the interest accruing thereon.

SEC. 5. *And be it further enacted*, That for the purchase of such books as may be necessary for

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the use of Congress at the said City of Washington, and for fitting up a suitable apartment for containing them and for placing them therein, the sum of five thousand dollars shall be, and hereby is, appropriated; and that the said purchase shall be made by the Secretary of the Senate and Clerk of the House of Representatives, pursuant to such directions as shall be given, and such catalogue as shall be furnished by a joint committee of both Houses of Congress to be appointed for that purpose; and that the said books shall be placed in one suitable apartment in the Capitol in the said city, for the use of both Houses of Congress and the members thereof, according to such regulations as the committee aforesaid shall devise and establish.

SEC. 6. *And be it further enacted*, That the several appropriations aforesaid shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, April 24, 1800.

An Act to repeal the act laying duties on mills and implements employed in the manufacture of snuff.

Be it enacted, &c., That so much of the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" passed on the third day of March, one thousand seven hundred and ninety-five, as imposes a duty upon mills and implements employed in the manufacture of snuff, or allows a drawback upon the exportation of snuff manufactured within the United States, shall be, and the same hereby is repealed.

Approved, April 24, 1800.

An Act to authorize the President of the United States to accept, for the United States, a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized to execute and deliver letters patent, in the name and behalf of the United States, to the Governor of the State of Connecticut, for the time being, for the use and benefit of the persons holding and claiming under the State of Connecticut, their heirs and assigns, forever, whereby all the right, title, interest, and estate, of the United States to the soil of that tract of land lying west of the west line of Pennsylvania, as claimed by the State of Pennsylvania, and as the same has been actually settled, ascertained, and run, in conformity to an agreement between the said State of Pennsylvania and the State of Virginia, and extending from said line westward one hundred and twenty statute miles in length, and in breadth throughout the said limits in length, from the completion of the forty-first degree of north latitude, until it comes to forty-two degrees and two minutes north latitude, including all that territory commonly called the Western Reserve of Connecticut, and which was excepted by said State of Connecticut out of the cession by the said State heretofore made to the United States, and accept-

ed by a resolution of Congress of the fourteenth of September, one thousand seven hundred and eighty-six, shall be released and conveyed as aforesaid to the said Governor of Connecticut, and his successors in said office, forever, for the purpose of quieting the grantees and purchasers under said State of Connecticut, and confirming their titles to the soil of the said tract of land.

Provided, however, That such letters patent shall not be executed and delivered, unless the State of Connecticut shall, within eight months from passing this act, by a legislative act, renounce forever, for the use and benefit of the United States, and of the several individual States who may be therein concerned, respectively, and of all those deriving claims or titles from them or any of them, all territorial and jurisdictional claims whatever, under any grant, charter, or charters, whatever, to the soil and jurisdiction of any and all lands whatever, lying westward, northward, and southward of those counties, in the State of Connecticut, which are bounded westward by the eastern line of the State of New York, as ascertained by agreement between Connecticut and New York, in the year one thousand seven hundred and thirty-three, excepting only from such renunciation the claim of said State of Connecticut, and of those claiming from or under the said State, to the soil of said tract of land herein described under the name of the Western Reserve of Connecticut.

And provided, also, That the said State of Connecticut shall, within the said eight months from and after passing this act, by the agent or agents of said State, duly authorized by the Legislature thereof, execute and deliver, to the acceptance of the President of the United States, a deed expressly releasing to the United States the jurisdictional claim of the said State of Connecticut to the said tract of land herein described under the name of the Western Reserve of Connecticut, and shall deposit an exemplification of said act of renunciation, under the seal of the said State of Connecticut, together with the said deed releasing said jurisdiction, in the office of the Department of State of the United States, which deed of cession when so deposited shall vest the jurisdiction of said territory in the United States: *Provided*, That neither this act, nor anything contained therein, shall be construed so as in any manner to draw into question the conclusive settlement of the dispute between Pennsylvania and Connecticut, by the decree of the federal court at Trenton, nor to impair the right of Pennsylvania or any other State, or of any person or persons claiming under that or any other State, in any existing dispute concerning the right, either of soil or jurisdiction, with the State of Connecticut, or with any person or persons claiming under the State of Connecticut: *And provided, also*, That nothing herein contained shall be construed in any manner to pledge the United States for the extinguishment of the Indian title to the said lands, or further than merely to pass the title of the United States thereto.

Approved, April 28, 1800.

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An Act to provide for rebuilding the Light-house at New London; for the support of a Light-house at Clark's Point; for the erection and support of a Light-house at Wigwam Point, and for other purposes.

Be it enacted, &c., That, under the direction of the Secretary of the Treasury, there shall be purchased, for the use of the United States, so much land contiguous to their territory, now occupied for the light-house at New London, as shall be sufficient for vaults, and any other purpose, necessary for the better support of said light-house: *Provided,* That the Legislature of the State of Connecticut shall cede to the United States, the jurisdiction of such additional territory.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby, authorized, at his discretion, to procure a new lantern, with suitable distinctions, and to cause convenient vaults to be erected, and the said light-house at New London to be rebuilt.

SEC. 3. *And be it further enacted,* That the light-house lately erected at Clark's Point, so called, at the entrance of Accushnet river, within the town of New Bedford, in the State of Massachusetts, shall and may be supported at the expense of the United States. And the Secretary of the Treasury shall and may appoint a keeper thereof, and take further order respecting the same, as in other cases: *Provided,* That the property and jurisdiction of the said light-house, and sufficient territory for the accommodation thereof, shall be fully ceded and legally vested in the United States.

SEC. 4. *And be it further enacted,* That, under the direction of the Secretary of the Treasury, there shall be provided and maintained at the expense of the United States, not exceeding six buoys, to be placed within Buzzard's Bay, upon the most dangerous ledges there, in such manner as the safety of navigation in that bay requires.

SEC. 5. *And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby, authorized and directed to cause a sufficient light-house to be erected on Wigwam Point, so called, within the town of Gloucester, in the State of Massachusetts, where it will best serve the purpose of discovering the entrance of Anesquam harbor, and to appoint a keeper, and otherwise to provide for the support of such light-house, at the expense of the United States. *Provided,* That sufficient land for the accommodation of such light-house, together with the jurisdiction thereof, shall be duly and legally granted to and vested in the United States.

SEC. 6. *And be it further enacted,* That there shall be, and hereby are, appropriated, for providing the said buoys, a sum not exceeding three hundred dollars, and for the erection of the said light-house at Wigwam Point, a sum, not exceeding two thousand dollars, to be paid out of any moneys which may be in the Treasury of the United States, not otherwise appropriated.

Approved, April 29, 1800.

An Act supplementary to the laws now in force, fixing the compensations of the officers of the Senate and House of Representatives.

Be it enacted, &c. That from and after the thirty-first day of December, one thousand seven hundred and ninety-nine, the officers of the Senate and House of Representatives, hereinafter mentioned, shall be, and hereby are, entitled to receive, in addition to their compensations as now fixed by law, the following sums, that is to say: The Secretary of the Senate and Clerk of the House of Representatives, two hundred and fifty dollars each, in addition to their salaries as at present established by law; and each of their principal and engrossing clerks, in addition to their per diem allowance as established by law, two hundred dollars per annum.

SEC. 2. *And be it further enacted,* That the sergeant-at-arms of the Senate, who also performs the duty of doorkeeper, the sergeant-at-arms of the House of Representatives, and the doorkeeper of the House of Representatives, shall be, and hereby are, entitled to receive five hundred dollars per annum each, and two dollars a day during the session; and the assistant doorkeepers of the Senate and House of Representatives four hundred and fifty dollars per annum each, and two dollars per day during the session, in lieu of the compensations heretofore established by law, which compensations shall commence from the commencement of the present session.

SEC. 3. *And be it further enacted,* That this act shall continue in force for and during the term of two years, and no longer.

Approved, May 2, 1800.

An Act to continue in force "An act laying an additional duty on salt imported into the United States, and for other purposes."

Be it enacted, &c., That an act passed on the eighth day of July, one thousand seven hundred and ninety-seven, entitled "An act laying an additional duty on salt imported into the United States, and for other purposes, shall be, and the same is hereby, continued in force for and during the term of ten years, from the third day of March, one thousand eight hundred, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 7, 1800.

An Act to divide the Territory of the United States Northwest of the Ohio, into two separate Governments.

Be it enacted, &c., That, from and after the fourth day of July next, all that part of the Territory of the United States Northwest of the Ohio river, which lies to the westward of a line beginning at the Ohio, opposite to the mouth of Kentucky river, and running thence to Fort Recovery, and thence north until it shall intersect the territorial line between the United States and Canada, shall, for the purposes of temporary government, constitute a separate territory, and be called the Indiana Territory.

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SEC. 2. *And be it further enacted,* That there shall be established within the said Territory a Government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the Territory of the United States Northwest of the river Ohio; and the inhabitants thereof shall be entitled to, and enjoy all and singular, the rights, privileges, and advantages, granted and secured to the people by the said ordinance.

SEC. 3. *And be it further enacted,* That the officers for the said Territory, who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations, as by the ordinance aforesaid and the laws of the United States, have been provided and established for similar officers in the Territory of the United States Northwest of the river Ohio: And the duties and emoluments of Superintendent of Indian Affairs shall be united with those of Governor: *Provided,* That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted,* That so much of the ordinance for the government of the Territory of the United States Northwest of the Ohio river, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall be in force and operate in the Indiana Territory, whenever satisfactory evidence shall be given to the Governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided,* That, until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the General Assembly shall not be less than seven, nor more than nine, to be apportioned by the Governor to the several counties in the said Territory, agreeably to the number of free males of the age of twenty-one years and upwards, which they may respectively contain.

SEC. 5. *And be it further enacted,* That nothing in this act contained shall be construed so as in any manner to affect the Government now in force in the Territory of the United States Northwest of the Ohio river, further than to prohibit the exercise thereof within the Indiana Territory, from and after the aforesaid fourth day of July next: *Provided,* That, whenever that part of the Territory of the United States which lies to the eastward of a line beginning at the mouth of the Great Miami river, and running thence due north to the territorial line between the United States and Canada, shall be erected into an independent State, and admitted into the Union on an equal footing with the original States, thenceforth said line shall become and remain permanently the

boundary line between such State and the Indiana Territory, anything in this act contained to the contrary notwithstanding.

SEC. 6. *And be it further enacted,* That, until it shall be otherwise ordered by the Legislatures of the said Territories, respectively, Chillicothe, on Scioto river, shall be the seat of the Government of the Territory of the United States Northwest of the Ohio river; and that Saint Vincennes, on the Wabash river, shall be the seat of the Government for the Indiana Territory.

Approved, May 7, 1800.

An Act to enable the President of the United States to borrow money for the public service.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized to borrow, on behalf of the United States, from the Bank of the United States, which is hereby authorized to lend the same, or from any other body or bodies politic or corporate, or from any person or persons, and upon such terms and conditions as he shall judge most advantageous for the United States, a sum not exceeding three millions five hundred thousand dollars, in addition to the moneys to be received into the Treasury of the United States from taxes, for making up any deficiency in any appropriation heretofore made by law, or to be made, during the present session of Congress, and defraying the expenses which may be incurred by calling into actual service any part of the militia of the United States, or by arming, equipping, and calling into actual service any regular troops or volunteers, pursuant to authorities vested, or to be vested, in the President of the United States by law: *Provided,* That no engagement nor contract shall be entered into, which shall preclude the United States from reimbursing any sum or sums borrowed, at any time after the expiration of fifteen years from the date of such loan.

SEC. 2. *And be it further enacted,* That so much as may be necessary of the surplus of the duties on imports and tonnage, beyond the permanent appropriations heretofore charged upon them by law, shall be, and hereby is, pledged and appropriated for paying the interest of all such moneys as may be borrowed pursuant to this act, according to the terms and conditions on which the loan or loans, respectively, may be effected; and also for paying and discharging the principal sum or sums of any such loan or loans, according to the terms and conditions to be fixed as aforesaid: And the faith of the United States shall be, and hereby is, pledged to establish sufficient permanent revenues for making up any deficiency that may hereafter appear in the provisions for paying the said interest and principal sums, or any of them, in manner aforesaid.

SEC. 3. *And be it further enacted,* That the sums to be borrowed, pursuant to this act, shall be paid into the Treasury of the United States, and there separately accounted for; and that the same shall be, and hereby are, appropriated in the manner following:

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First, to make up any deficiency in any appropriation heretofore made by law, or to be made, during the present session of Congress; and, secondly, to defray the expenses which may be incurred before the end of the next session of Congress, by calling into actual service any part of the militia of the United States, or by raising, equipping, and calling into actual service any regular troops or volunteers, pursuant to authorities vested or to be vested in the President of the United States by law.

Approved, May 7, 1800.

An Act to authorize the sale and conveyance of lands, in certain cases, by the Marshals of the United States, and to confirm former sales.

Be it enacted, &c., That where the United States shall have obtained judgment in civil actions, brought in those States wherein, by the laws and practice of such States, lands or other real estate belonging to the debtor are delivered to the creditor in satisfaction of such judgment, and shall have received seizin and possession of lands so delivered, it shall be lawful for the marshal of the district wherein such lands or other real estate are situated, under the directions of the Secretary of the Treasury, to expose the same to sale at public auction, and to execute a grant thereof to the highest bidder, on receiving payment of the full purchase money; which grant, so made, shall vest in such purchaser all the right, estate, and interest, of the United States in and to such lands, or other real estate.

Sec. 2. *And be it further enacted,* That the sales heretofore made by collectors of certain districts of the United States, of lands or other real estate delivered as aforesaid to the United States, shall be, and they are hereby, confirmed: *Provided,* That this confirmation shall not extend to any sale, unless the condition of such sale has been complied with by the purchaser.

Sec. 3. *And be it further enacted,* That whenever a marshal shall sell any lands, tenements, or hereditaments, by virtue of process from a court of the United States, and shall die, or be removed from office, or the term of his commission expire, before a deed shall be executed for the same by him to the purchaser; in every such case the purchaser or plaintiff, at whose suit the sale was made, may apply to the court from which the process issued, and set forth the case, assigning the reason why the title was not perfected by the marshal who sold the same; and thereupon the court may order the marshal for the time being to perfect the title, and execute a deed to the purchaser, he paying the purchase money and costs remaining unpaid: and where a marshal shall take in execution any lands, tenements, or hereditaments, and shall die, or be removed from office, or the term of his commission expire before sale, or other final disposition made of the same; in every such case, the like process shall issue to the succeeding marshal, and the same proceedings shall be had, as if such former marshal had not died or been removed, or the term of his commission had not

expired: And the provisions in this section contained shall be, and they are hereby, extended to all the cases, respectively, which may have happened before the passing of this act.

Approved, May 7, 1800.

An act for the regulation of public arsenals and magazines.

Be it enacted, &c., That the several officers who now are, or hereafter may be, employed in the armories of the United States shall be entitled to, and shall receive, the following compensations, in addition to their pay as established by law, to wit: A superintendent of such armory, three rations per day, or an equivalent in money; and a master armorer, two rations per day, or an equivalent in money.

Sec. 2. *And be it further enacted,* That if any person shall procure, or entice, any artificer or workman, retained or employed in any arsenal or armory of the United States, to depart from the same during the continuance of his engagement, or avoid or break his contract with the United States, or who after due notice of the engagement of any such workman or armorer, in any arsenal or armory, shall, during the continuance of such engagement, retain, hire, or in any wise employ, harbor, or conceal, such artificer or workman, the person so offending, shall, upon conviction, be fined, at the discretion of the court, not exceeding fifty dollars, or be imprisoned for any term not exceeding three months.

Sec. 3. *And be it further enacted,* That if any artificer or workman, hired, retained, or employed, in any public arsenal or armory, shall wantonly and carelessly break, impair, or destroy any implements, tools, or utensils, or any stock or materials for making guns, the property of the United States; or shall wilfully and obstinately refuse to perform the services lawfully assigned to him, pursuant to his contract, every such person shall forfeit a sum not exceeding twenty dollars for every such act of disobedience or breach of contract, to be recovered in any court having competent jurisdiction thereof.

Sec. 4. *And be it further enacted,* That all artificers and workmen, who are or shall be employed in the said armories, shall be, and they are hereby, exempted, during their term of service, from all military service, and service as jurors in any court.

Approved, May 7, 1800.

An Act making appropriations for the support of Government for the year one thousand eight hundred.

Be it enacted, &c., That, for the expenditure of the civil list, including the contingent expenses of the several departments and officers; for the compensation of clerks in the several loan offices, and for books and stationery for the same; for the payment of annuities and grants, for the support of the Mint establishment, for the expenses of intercourse with foreign nations, for the support of light-houses, beacons, buoys, and public piers, and

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for satisfying certain miscellaneous claims and expenses; the following sums be, and are hereby, appropriated, that is to say:

For the compensation granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations granted to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of six months' continuance, one hundred and ninety thousand one hundred and seventy-five dollars.

For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, including the sum stipulated to be paid in pursuance of a resolution of March second, one thousand seven hundred and ninety-nine, for supplying both Houses with the journals of Congress, twenty-one thousand six hundred and sixty-four dollars and forty cents.

For the compensations granted by law to the chief-justice, associate judges, district judges, and attorney general, forty-five thousand five hundred dollars.

For the compensations granted by law to the district attorneys, and for defraying the expense of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties; and likewise for defraying the expenses of prosecution for offences against the United States, and for safe keeping of prisoners, thirty-three thousand four hundred dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eleven thousand one hundred and eighty-nine dollars and eighty-one cents.

For expenses of stationery, printing, translating of foreign languages, allowance to persons employed in receiving and transmitting passports and sea-letters, in the office of the Secretary of the Treasury, eight hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventeen dollars and eight cents.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand one hundred and sixty dollars and ninety-three cents.

For expense of stationery, printing, and all other contingent expenses in the office of the Auditor, seven hundred and fifty dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, five thousand nine hundred and seventeen dollars and forty-five cents.

For expenses of fire-wood, stationery, printing, rent, and all other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Commissioner of the Revenue, clerks, and persons employed in his office, six thousand one hundred and ninety-three dollars and six cents.

For expense of stationery, printing, and all

other contingent expenses in the office of the Commissioner of the Revenue, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand three hundred and forty-two dollars and one cent.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, two thousand eight hundred and fifty dollars.

For fire-wood, stationery, office, and store rent, for the Purveyor, nine hundred and sixteen dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) two thousand seven hundred and thirty dollars and sixty-six cents.

For the expense of fire-wood and candles in the several offices of the Treasury Department, (except the Treasurer's office,) three thousand five hundred dollars.

For defraying the expense incident to the stationing and printing the public accounts for the year one thousand eight hundred, (including an increase of two hundred dollars in consequence of an extension of the revenue and expenditures,) one thousand two hundred dollars.

For defraying the expense incident to the removal of the books and records of the Treasury Department from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the several officers, clerks, and messengers in each office, five thousand dollars.

For compensation to the several loan-officers, thirteen thousand two hundred and fifty dollars.

For the expense incident to the removal of the Loan Office of Pennsylvania from Philadelphia, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the clerks in the said office, three hundred and six dollars.

For compensation to the clerks to the Commissioners of Loans, and an allowance to certain loan officers in lieu of clerk hire, and to defray the authorized expenses of the several Loan Offices, fifteen thousand dollars.

For compensation to the Secretary of State clerks, and persons employed in that department, eleven thousand three hundred dollars.

For the incidental and contingent expenses in the said department, thirteen thousand dollars.

For the expenses incident to the removal of the Department of State from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the Secretary for the Department, the clerks and messengers therein, five hundred and eight dollars and sixty cents.

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For compensation to the following officers of the Mint:

The Director, two thousand dollars;
The Treasurer, one thousand two hundred dollars;

The Assayer, one thousand five hundred dollars;
The Chief Coiner, one thousand five hundred dollars;

The Melter and Refiner, one thousand five hundred dollars;

The Engraver, twelve hundred dollars:

One clerk at seven hundred dollars, and two at five hundred dollars each; one thousand seven hundred dollars.

For persons employed at the different branches of melting, refining, coining, carpenters, millwrights and smiths' work, including the sum of eight hundred dollars per annum allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, seven thousand dollars.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for all other contingencies of the establishment of the Mint, six thousand three hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand one hundred and ninety dollars.

For expenses of fire-wood, stationery, printing, rent, and other contingent expenses in the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand eight hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For the expense incident to the removal of the War Department from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the Secretary for the Department, the Accountant, the Paymaster General, the Quartermaster General, the keeper of military stores, clerks, and messengers in each office, four thousand four hundred and twenty-six dollars and fifty-six cents.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, including deficiencies in former appropriations for clerk hire, nine thousand one hundred and fifty-two dollars and twenty-five cents.

For the expense of fire-wood, stationery, printing, rent, and other contingencies in the office of the Secretary of the Navy, three thousand three hundred dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, nine thousand two hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the Navy, seven hundred and fifty dollars.

For expense of removing the Department of the Navy from Philadelphia to Trenton, during part of the summer of the year one thousand

seven hundred and ninety-nine, including the extra expenses of the Secretary for the Department, the Accountant, clerks, and messengers in each office, one thousand two hundred and fifty-four dollars and fifty-nine cents.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the assistant surveyors, chain-carriers, axe-men, and other persons employed, stationery, and other contingent expenses in the Surveyor General's Department, (in addition to former appropriations,) two thousand dollars.

For compensation to the Governor, Judges, and Secretary of the Territory Northwest of the river Ohio, five thousand one hundred and fifty dollars.

For expenses of stationery, printing patents for land, office rent, and other contingent expenses in the said territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, and other contingent expenses in the said territory, three hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, nine thousand three hundred dollars.

For expense of fire-wood, stationery, printing, rent, and other contingent expenses in the office of the Postmaster General, and for the expense incident to the removal of the General Post Office from Philadelphia to Trenton, during part of the summer of the year one thousand seven hundred and ninety-nine, including the extra expenses of the Postmaster General, his Assistant, and clerks; with expenses incurred by the Postmaster at Philadelphia, by a removal of his office to a more healthy part of the city, and of his increased expenses in attending to the duties of his office in the years one thousand seven hundred and ninety-three, one thousand seven hundred and ninety-seven, one thousand seven hundred and ninety-eight, and one thousand seven hundred and ninety-nine, four thousand and eighty-one dollars and forty-nine cents.

For the discharge of such miscellaneous demands against the United States on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, two thousand dollars.

For the payment of sundry pensions granted by the late Government, nine hundred and fifty-three dollars and thirty-three cents.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stake-
age of channels, bars, and shoals, and for occasional improvement in the construction of lanterns and lamps, and materials used therein, and to make good deficiencies in former appropriations occasioned by the increased number of light-houses, thirty-nine thousand three hundred and ninety-two dollars and three cents.

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For repairing Charleston light-house, five thousand nine hundred and fifty dollars.

For erecting a light-house on Old Point Comfort (in addition to former appropriations,) one thousand five hundred dollars.

For rebuilding, altering, and improving the light-house at New London, fifteen thousand seven hundred dollars.

For the payment of contracts entered into for building of a light-house on Cape Hatteras, and a beacon on Shell Castle island, (the balance of former appropriations being carried to the credit of the surplus fund,) thirty-five thousand six hundred and ninety-eight dollars.

For the payment of balances which may be found due to individuals, in consequence of settlements at the Treasury, pursuant to the act of Congress passed on the twelfth day of June, one thousand seven hundred and ninety-eight, entitled "An act respecting loan office and final settlement certificates," &c., twenty-five thousand dollars.

For defraying the expenses of printing, with devices, the subscription certificates, and issuing the same to the subscribers to the loan of five millions of dollars, cost of paper; also, the incidental expenses of said loan in its operation at the Bank of the United States; and likewise for printing certificates of the eight per cent. stock for the Treasury, and the several Loan Offices, including the cost of paper, and other incidental expenses of funding this stock, five thousand dollars.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

For the expenses of intercourse with foreign nations during the present year, in addition to the sum of forty thousand dollars appropriated by law for that purpose, the sum of fifty-two thousand dollars.

For further expenses in carrying into effect the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, including the expenses authorized by the act, entitled "An act directing the appointment of agents in relation to the sixth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain," fifty-two thousand five hundred and fifty-six dollars.

For the salaries of the Commissioners under the seventh article of the said treaty, including the contingent expenses, sixteen thousand four hundred and forty-four dollars.

For the salaries, clerk hire, office rent, and other contingencies of the two agents residing in England on business relative to the said seventh article, nine thousand dollars.

For further expenses in carrying into effect the Treaty of Amity, Navigation, and Limits, between the United States and Spain, twenty thousand dollars.

For the difference between the cost of the stipulated articles in the annuity to the Dey and Re-

gency of Algiers, and the permanent appropriation therefor, fifty-six thousand dollars.

For defraying the expenses incident to the valuation of lands and houses, and enumeration of slaves, within the United States, as directed by the act of July the ninth, one thousand seven hundred and ninety-eight, in addition to the sum appropriated by that act, two hundred and fifteen thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid and discharged out of the fund of six hundred thousand dollars reserved by the act "making provision for the debt of the United States," and out of any money which may be in the Treasury not otherwise appropriated.

Approved, May 7, 1800.

An Act making appropriations for the Military Establishment of the United States, in the year one thousand eight hundred.

Be it enacted &c., That, for defraying the expenses of the Military Establishment of the United States, for the year one thousand eight hundred, the pay and subsistence of the officers and men, bounties and premiums, the clothing, hospital, ordnance, quartermaster and Indian departments, the defensive protection of the frontiers, the contingent expenses of the War Department, for the fabrication of cannon and arms, and purchase of ammunition, and for the payment of military pensions, the sum of three millions forty-two thousand five hundred and seventy-six dollars and thirty-five cents be, and is hereby, appropriated, that is to say:

For pay of the army of the United States, one million eighteen thousand six hundred and twenty dollars.

For the subsistence of the army, seven hundred and eighty-seven thousand seven hundred and eighty-six dollars and thirty-five cents.

For forage, the sum of thirty-six thousand six hundred and seventy-two dollars.

For horses, to replace those which may die, or become unfit for service, the sum of five thousand dollars.

For clothing, the sum of two hundred and fifty-seven thousand nine hundred and fifty-five dollars.

For bounties and premiums, the sum of fourteen thousand dollars.

For the hospital department, the sum of fifty-one thousand dollars.

For the ordnance department the sum of one hundred and thirteen thousand five hundred and twenty-two dollars.

For the quartermaster's department, the sum of five hundred and twenty-eight thousand and sixty-five dollars.

For paying annuities to the following nations of Indians, in pursuance of treaties: To the Six Nations, Cherokees, Chickasaws and Creeks, the sum of fifteen thousand dollars.

For promoting civilization among the Indian tribes, and pay of temporary agents, the sum of fifteen thousand dollars.

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For expense attending the running of the line of demarkation between the Indian territory of the United States, including the pay of commissioners, surveyors, and assistants, the sum of four thousand dollars.

For the defensive protection of the frontiers of the United States, including the erection and repairs of forts and fortifications, the sum of sixty thousand dollars.

For loss of stores, allowances to officers on being ordered to distant commands, and for special purposes, advertising and apprehending deserters, printing, purchasing maps, and other contingencies, the sum of forty thousand dollars.

For the annual allowance to the invalids of the United States, for their pensions from the fifth of March, one thousand eight hundred, to the fourth of March, one thousand eight hundred and one, the sum of ninety-three thousand dollars.

SEC. 2. *And be it further enacted*, That for the fabrication of cannon and arms, and purchase of ammunition for the army and navy, and for the militia of the United States, in addition to the sums unexpended of the appropriations made by the acts of Congress of the fourth of May and first of July, seventeen hundred and ninety-eight, the sum of two hundred and sixty thousand dollars shall be, and hereby is, appropriated.

SEC. 3. *And be it further enacted*, That the foregoing appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, May 10, 1800.

An Act to establish the district of Kennebunk, and to annex Lyme to New London; and to alter the district of Bermuda Hundred and City Point; and therein to amend the act, entitled, "An act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c., That, from and after the thirtieth day of June next, the towns of Wells and Arundel, in the State of Massachusetts, and all the shores and waters thereof, shall be a district, to be called the district of Kennebunk, of which the port of Kennebunk shall be the sole port of entry; and the ports of Wells and Cape Porpoise shall be ports of delivery only; and a collector for the district shall be appointed, to reside at Kennebunk.

SEC. 2. *And be it further enacted*, That ships and vessels, owned in whole or in part in the towns of Edgcomb and Newcastle, in the district of Maine, having entered in due form of law at the port of Wiscasset, and taken on board an officer, shall be permitted to unlade in the ports of the said towns which adjoin Sheepscut river.

SEC. 3. *And be it further enacted*, That, from and after the thirtieth day of June next, the town of Lyme, in the State of Connecticut, and the shores and waters thereof, shall be annexed, as a port of delivery only, to the district of New London, and all vessels bound to or from the said port of Lyme, shall first come to, enter, and clear, at the said port of New London: *Provided, however*, That the surveyor appointed to reside at Saybrook shall be authorized to visit and inspect ships or vessels arriv-

ing at said port of Lyme, and, generally, to perform the duties of a surveyor, as may be requisite within said port.

SEC. 4. *And be it further enacted*, That, from and after the thirtieth day of June next, the district of Bermuda Hundred and City Point, as at present constituted, in the State of Virginia, shall be called the district of Petersburg, to comprehend Petersburg, City Point, and all the waters, shores, bays, harbors, and inlets, of James river, from Hood's and the junction of Chicahoming, to the junction of the James and Appamattox rivers, and from thence to the highest tide-water of Appamattox, and also the Chicahoming to its highest tide-water mark; and the port for the said district shall extend from Petersburg to City Point. And another district shall be formed, to be called the district of Richmond, to comprehend Richmond, Manchester, and Bermuda Hundred, and all the waters, shores, bays, harbors, and inlets, of James river, from Bermuda Hundred, including the harbor thereof, to the highest tide-waters of James river; and the port shall extend from Richmond and Manchester to Bermuda Hundred. The office of collector for the district of Petersburg shall be kept in the town of Petersburg; and a collector shall be appointed for the Richmond district, whose office shall be kept in the city of Richmond; and the surveyors within those two districts shall continue to reside at the places at present established by law.

SEC. 5. *And be it further enacted*, That the master of any ship or vessel, bound to any district of James river above Sewall's Point, shall, before he pass by the said Point, and immediately after his arrival either at the same or at Hampton Road, deposit with the collector of the port of Norfolk and Portsmouth, or of Hampton, a true manifest of the cargo on board such ship or vessel; and the said collector shall, after registering the manifest, transmit the same, duly certified to have been so deposited, to the officer with whom the entries are to be made: And the said collector may, whenever he shall judge it to be necessary for the security of the revenue, put an inspector of the customs on board any such ship or vessel, to accompany the same until her arrival at the first port of entry or delivery, in the district, to which such ship or vessel may be destined: And if the master or commander of any such ship or vessel shall neglect or omit to deposit a manifest in manner as aforesaid, or shall refuse to receive an inspector of customs on board, as the case shall require, he shall forfeit and pay five hundred dollars, to be recovered with costs of suit, one-half for the use of the officer with whom such manifest ought to have been deposited, and the other half to the use of the collector of the district to which the said ship or vessel may be bound.

SEC. 6. *And be it further enacted*, That such part and so much of the act, entitled "An act to regulate the collection of duties on imports and tonnage," as comes within the purview of this act, being contrary hereto, shall be and hereby is repealed.

Approved, May 10, 1800.

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An Act supplemental to the act, entitled "An act for an amicable settlement of limits with the State of Georgia; and authorizing the establishment of a government in the Mississippi Territory."

Be it enacted, &c., That so much of the ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven, and of the act of Congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the Territory of the United States Northwest of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate, and be in force in the Mississippi Territory: *Provided*, That until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives.

SEC. 2. *And be it further enacted*, That until the number of free male inhabitants of full age in the Mississippi Territory, shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the General Assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements one.

SEC. 3. *And be it further enacted*, That the first election, for representatives to the General Assembly, shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the Legislature.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Governor of the Mississippi Territory, to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

SEC. 5. *And be it further enacted*, That the representatives shall be convened by the Governor at the town of Natchez, on the fourth Monday in September next.

SEC. 6. *And be it further enacted*, That so soon as the number of free male inhabitants of full age shall amount to, or exceed five thousand, the number of representatives to the General Assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

SEC. 7. *And be it further enacted*, That nothing in this act shall in any respect impair the right of the State of Georgia to the jurisdiction, or of the said State, or of any person or persons to the soil of the said Territory, but the rights and claims of the said State, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

SEC. 8. *And be it further enacted*, That the General Assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day: *Provided*, That the Governor shall have power on extraordinary occasions to convene the General Assembly.

SEC. 9. *And be it further enacted*, That neither

House during the session of the General Assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 10. *And be it further enacted*, That it shall be lawful for the commissioners appointed, or who may hereafter be appointed on the part of the United States, in pursuance of the act, entitled "An act for an amicable settlement of limits with the State of Georgia; and authorizing the establishment of a government in the Mississippi Territory," or any two of them, finally to settle by compromise with the commissioners, which have been or may be appointed by the State of Georgia, any claims mentioned in said act, and to receive in behalf of the United States a cession of any lands therein mentioned, or of the jurisdiction thereof, on such terms as to them shall appear reasonable: And also, that the said commissioners on the part of the United States, or any two of them, be authorized to inquire into the claims which are or shall be made by settlers or any other persons whatsoever, to any part of the aforesaid lands, and to receive from such settlers and claimants any propositions of compromise which may be made by them, and lay a full statement of the claims and the propositions which may be made to them by the settlers or claimants to any part of the said lands, together with their opinion thereon, before Congress, for their decision thereon, as soon as may be: *Provided*, That the settlement shall be made and completed before the fourth day of March, one thousand eight hundred and three: *And provided, also*, That the said commissioners shall not contract for the payment of any money from the Treasury of the United States to the State of Georgia, other than the proceeds of the same lands.

Approved, May 10, 1800.

An Act in addition to the act, entitled "An act to prohibit the carrying on the slave trade from the United States to any foreign place or country."

Be it enacted, &c., That it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly, to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any right or property, belonging as aforesaid, shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same; and such person, transgressing the prohibition aforesaid, shall also forfeit and pay a sum of money equal to double the value of the right of property in such vessel, which he held as aforesaid; and shall also forfeit a sum of money equal to double the value of the interest which he may have had in the slaves, which at any time may have been transported or carried in such vessel, after the passing of this act, and against the form thereof.

SEC. 2. *And be it further enacted*, That it shall be unlawful for any citizen of the United States, or other person residing therein, to serve on board any vessel of the United States employed or made

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use of in the transportation or carrying of slaves, from one foreign country or place to another; and any such citizen or other person, voluntarily serving as aforesaid, shall be liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SEC. 3. *And be it further enacted*, That if any citizen of the United States shall voluntarily serve on board of any foreign ship or vessel, which shall hereafter be employed in the slave trade, he shall, on conviction thereof, be liable to, and suffer the like forfeitures, pains, disabilities, and penalties, as he would have incurred, had such ship or vessel been owned or employed, in whole or in part, by any person or persons residing within the United States.

SEC. 4. *And be it further enacted*, That it shall be lawful for any of the commissioned vessels of the United States, to seize and take any vessel employed in carrying on trade, business, or traffic, contrary to the true intent and meaning of this or the said act to which this is in addition; and such vessel, together with her tackle, apparel, and guns, and the goods or effects, other than slaves, which shall be found on board, shall be forfeited, and may be proceeded against in any of the district or circuit courts, and shall be condemned for the use of the officers and crew of the vessel making the seizure, and be divided in the proportion directed in the case of prize: And all persons interested in such vessel, or in the enterprise or voyage in which such vessel shall be employed at the time of such capture, shall be precluded from all right or claim to the slaves found on board such vessel as aforesaid, and from all damages or retribution on account thereof: And it shall moreover be the duty of the commanders of such commissioned vessels, to apprehend and take into custody every person found on board of such vessel so seized and taken, being of the officers or crew thereof, and him or them convey, as soon as conveniently may be, to the civil authority of the United States, in some one of the districts thereof, to be proceeded against in due course of law.

SEC. 5. *And be it further enacted*, That the district and circuit courts of the United States shall have cognizance of all acts and offences against the prohibitions herein contained.

SEC. 6. *Provided, nevertheless, and be it further enacted*, That nothing in this act contained shall be construed to authorize the bringing into either of the United States, any person or persons, the importation of whom is, by the existing laws of such State, prohibited.

SEC. 7. *And be it further enacted*, That the forfeitures which shall hereafter be incurred under this, or the said act to which this is in addition, not otherwise disposed of, shall accrue, and be, one moiety thereof to the use of the informer, and the other moiety to the use of the United States, except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Approved, May 10, 1800.

An Act to provide for equalizing the valuations of unseated lands.

Be it enacted, &c., That the commissioners appointed under the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," in those States the valuations and enumerations whereof are not yet closed and returned to the Treasury Department, shall be, and hereby are, authorized and empowered, on examination and consideration, at some general meeting to be convened pursuant to law, of the lists, returns, valuations and abstracts, rendered to them by the assessors within their respective States, to revise the valuations of unseated lands in each and every assessment district of their respective States, and in each and every sub-division of such districts, respectively, and to vary and adjust the said valuations, by adding thereto or deducting therefrom such rate per centum as to them shall appear just and reasonable: *Provided always*, That the relative valuations of different tracts of unseated land in the same sub-division shall not be changed or affected.

SEC. 2. *And be it further enacted*, That the said commissioners may direct the deductions and additions aforesaid to be made out and completed by the principal assessors of the aforesaid assessment district, respectively, or, if they shall deem it more proper, by their own clerk and by such assistants as they shall find necessary and appoint for that purpose: *Provided, always*, That the compensation to be made to the said assistants shall not exceed the pay allowed to the assistant assessors by the act aforesaid.

Approved, May 10, 1800.

An Act supplementary to an act, entitled "An act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage."

Be it enacted, &c., That, from and after the thirtieth day of June next, there shall be allowed and paid annually, to and for the use of the several collectors and surveyors appointed, and to be appointed pursuant to law, and employed in the collection of the duties of imports and tonnage, in the districts hereinafter mentioned, in addition to their fees and emoluments otherwise allowed by law, the sums following, respectively, that is to say: The collectors of Passamaquoddy, Waldoborough, and St. Mary's, two hundred and fifty dollars each: To the collectors of Machias, Great Egg Harbor, Little Egg Harbor, Perth Amboy, Bridgetown, Sunbury, and Georgetown, in Maryland, one hundred dollars each; and to the collectors of Sagg Harbor, Brunswick, in Georgia, and Dumfries, fifty dollars each: To the surveyor of Bermuda Hundred, one hundred and fifty dollars; and to the surveyors of Newport, Providence, Port Royal, Alexandria, and Saybrook, one hundred dollars each.

SEC. 2. *And be it further enacted*, That, in lieu of the commissions heretofore allowed by law, there shall, from and after the thirtieth day of June next, be allowed to the collectors for the districts of Alexandria, Petersburg, and Richmond,

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respectively, two and a half per centum, on all moneys which shall be collected and received by them: To the collector for the district of Boston and Charlestown, and to the collectors of Baltimore and Philadelphia, three-eighths of one per centum: To the collectors of Charleston, South Carolina, Salem, and Norfolk, and Portsmouth, three-quarters of one per centum: To the collector of the district of Portland, one per centum; for and on account of the duties arising on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels.

SEC. 3. *And be it further enacted*, That it shall be the duty of the collectors of the several districts of Philadelphia, New York, Boston, Baltimore, Norfolk, and Charleston, and they are hereby respectively directed, to deposit for collection in the Bank of the United States, or at an office of discount and deposit of the said bank, all the bonds taken, or to be taken by them, for duties, by virtue of any law of the United States; but on all money collected by the said banks the commissions aforesaid are to be allowed the said collectors, in like manner as if received by them.

Approved, May 10, 1800.

An Act to amend the act, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the Ohio, and above the mouth of Kentucky river."

Be it enacted, &c., That, for the disposal of the lands of the United States, directed to be sold by the act, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the Ohio, and above the mouth of Kentucky river," there shall be four land offices established in the said territory: One at Cincinnati, for lands below the Little Miami, which have not heretofore been granted; one at Chillicothe, for lands east of the Sciota, south of the lands appropriated for satisfying military bounties to the late army of the United States, and west of the fifteenth range of townships; one at Marietta, for the lands east of the sixteenth range of townships, south of the beforementioned military lands, and south of a line drawn due west from the northwest corner of the first township of the second range, to the said military lands; and one at Steubenville, for the lands north of the last mentioned line, and east or north of the said military lands: Each of the said offices shall be under the direction of an officer, to be called "The Register of the Land Office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States, with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land-office is directed to be kept.

SEC. 2. *And be it further enacted*, That it shall be the duty of the surveyor general, and he is hereby expressly enjoined, to prepare and transmit to the registers of the several land offices, before the days herein appointed for commencing sales, general plats of the lands hereby directed to be sold at

the said offices, respectively, and also to forward copies of each of the said plats to the Secretary of the Treasury.

SEC. 3. *And be it further enacted*, That the surveyor general shall cause the townships west of the Muskingum, which by the above mentioned act are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same from east to west, and from south to north, at the distance of one mile from each other, and marking corners, at the distance of each half mile on the lines running from east to west, and at the distance of each mile on those running from south to north, and making the marks, notes, and descriptions, prescribed to surveyors by the abovementioned act: And the interior lines of townships intersected by the Muskingum, and of all the townships lying east of that river, which have not been heretofore actually subdivided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships directed to be sold in sections of six hundred and forty acres each: And in all cases where the exterior lines of the townships, thus to be subdivided into sections or half sections, shall exceed or shall not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half sections in such township, according as the error may be in running the lines from east to west, or from south to north. The sections and half sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats, respectively, and all others as containing the complete legal quantity: And the President of the United States shall fix the compensation of the deputy surveyors, chain-carriers, and axe-men: *Provided*, The whole expense of surveying and marking the lines shall not exceed three dollars for every mile that shall be actually run, surveyed, and marked.

SEC. 4. *And be it further enacted*, That the lands thus subdivided (excluding the sections reserved by the abovementioned act) shall be offered for sale in sections and half sections, subdivided as before directed, at the following places and times, that is to say: those below the Little Miami shall be offered at public vendue, in the town of Cincinnati, on the first Monday of April, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the Governor or Secretary of the Northwestern Territory: The lands east of Sciota, south of the military lands, and west of the fifteenth range of townships, shall be offered in like manner for sale at Chillicothe, on the first Monday of May, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the Governor or Secretary of the said territory: The lands east of the sixteenth range of townships, south of the military lands, and west of the Muskingum, including all the townships intersected by that river,

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shall be offered for sale in like manner at Marietta, on the last Monday of May, one thousand eight hundred and one, under the direction of the Governor or Secretary, or surveyor general of the said territory. The sales shall remain open at each place for three weeks and no longer. The superintendents shall observe the rules and regulations of the abovementioned act, in classing and selling fractional with entire sections, and in keeping and transmitting accounts of the sales. All lands, remaining unsold, at the closing of either of the public sales, may be disposed of at private sale by the registers of these respective land offices, in the manner hereinafter prescribed. And the register of the land office at Steubenville, after the first day of July next, may proceed to sell at private sale the lands situate within the district assigned to his direction as herein before described, disposing of the same in sections, and classing fractional with entire sections, according to the provisions and regulations of the abovementioned act and of this act: And the register of the land office at Marietta, after the said first day of July next, may proceed to sell, at private sale, any of the lands within the district assigned to his direction as aforesaid, which are east of the river Muskingum, excluding the townships intersected by that river, disposing of the same in sections, and classing fractional with entire sections as aforesaid.

Sec. 5. *And be it further enacted*, That no lands shall be sold by virtue of this act, at either public or private sale, for less than two dollars per acre, and payment may be made for the same by all purchasers, either in specie, or in evidences of the public debt of the United States, at the rates prescribed by the act, entitled "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States;" and shall be made in the following manner, and under the following conditions, to wit:

1. At the time of purchase, every purchaser shall, exclusively of the fees hereafter mentioned, pay six dollars for every section, and three dollars for every half section, he may have purchased, for surveying expenses, and deposit one-twentieth part of the amount of the purchase money, to be forfeited, if within forty days one-fourth part of the purchase money, including the said twentieth part, is not paid.

2. One-fourth part of the purchase money shall be paid within forty days after the day of sale as aforesaid; another fourth part shall be paid within two years; another fourth part within three years; and another fourth part within four years after the day of sale.

3. Interest, at the rate of six per cent. a year, from the day of sale, shall be charged upon each of the three last payments, payable as they respectively become due.

4. A discount, at the rate of eight per cent. a year, shall be allowed on any of the three last payments, which shall be paid before the same shall become due, reckoning this discount always upon the sum, which would have been demandable by the United States, on the day appointed for such payment.

5. If the first payment of one-fourth part of the purchase money shall not be made within forty days after the sale, the deposit, payment, and fees, paid and made by the purchaser, shall be forfeited, and the lands shall and may, from and after the day when the payment of one fourth part of the purchase money should have been made, be disposed of at private sale, on the same terms and conditions, and in the same manner as the other lands directed by this act to be disposed of at private sale. *Provided*, That the lands which shall have been sold at public sale, and which shall, on account of such failure of payment, revert to the United States, shall not be sold at private sale, for a price less than the price that shall have been offered for the same at public sale.

6. If any tract shall not be completely paid for within one year after the date of the last payment, the tract shall be advertised for sale by the register of the land office within whose district it may lie, in at least five of the most public places in the said district, for at least thirty days before the time of sale; and he shall sell the same at public vendue, during the sitting of the court of quarter sessions of the county in which the land office is kept, for a price not less than the whole arrears due thereon, with the expenses of sale; the surplus, if any, shall be returned to the original purchaser, or to his legal representative; but if the sum due, with interest, be not bidden and paid, then the land shall revert to the United States. All moneys paid therefor shall be forfeited, and the register of the land office may proceed to dispose of the same to any purchaser, as in case of other lands at private sale.

Sec. 6. *And be it further enacted*, That all and every the payments, to be made by virtue of the preceding section, shall be made either to the Treasurer of the United States, or to such person or officer as shall be appointed by the President of the United States, with the advice and consent of the Senate, receiver of public moneys for lands of the United States, at each of the places respectively where the public and private sales of the said lands are to be made; and the said receiver of public moneys shall, before he enters upon the duties of his office, give bond, with approved security, in the sum of ten thousand dollars, for the faithful discharge of his trust; and it shall be the duty of the said Treasurer and receiver of public moneys to give receipts for the moneys by them received, to the persons respectively paying the same; to transmit within thirty days in case of public sale, and quarterly in case of private sale, an account of all the public moneys by them received, specifying the amount received from each person, and distinguishing the sums received for surveying expenses, and those received for purchase money, to the Secretary of the Treasury, and to the registers of the land office, as the case may be. The said receivers of public moneys shall, within three months after receiving the same, transmit the moneys by them received to the Treasurer of the United States; and the receivers of public moneys for the said sales, and also the receivers of public moneys for the sales

which have taken place at Pittsburg under the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the Ohio and above the mouth of Kentucky river," shall receive one per cent. on the money received, as a compensation for clerk hire, receiving, safe-keeping, and transmitting it to the Treasury of the United States.

SEC. 7. *And be it further enacted*, That it shall be the duty of the registers of the land offices, respectively, to receive and enter in books kept for that purpose only, and on which no blank leaves or space shall be left between the different entries, the applications of any person or persons who may apply for the purchase of any section or half section, and who shall pay him the fee hereafter mentioned, and produce a receipt from the Treasurer of the United States, or from the receiver of public moneys appointed for that purpose, for three dollars for each half section such person or persons may apply for, and for at least one-twentieth part of the purchase money, stating carefully in each entry the date of the application, the date of the receipt to him produced, the amount of moneys specified in the said receipt, and the number of the section or half section, township, and range, applied for. If two or more persons shall apply at the same time for the said tract, the register shall immediately determine by lot, in presence of the parties, which of them shall have preference. He shall file the receipt for moneys produced by the party, and give him a copy of his entry, and, if required, a copy of the description of the tract, and a copy of the plat of the same, or either of them; and it shall be his duty to inform the party applying for any one tract, whether the same has already been entered, purchased, or paid for, and at his request to give him a copy of the entry or entries concerning the same. He shall, three months after the date of each application, if the party shall not have within that time produced to him a receipt of the payment of one-fourth part of the purchase money, including the twentieth part above mentioned, enter under its proper date, in the said book of entries, that the payment has not been made, and that the land has reverted to the United States, and he shall make a note of the same in the margin of the book opposite to the original entry. And if the party shall, either at the time of making the original entry, or at any time within three months thereafter, produce a receipt to him, for the fourth part of the purchase money, including the twentieth part aforesaid, he shall file the receipt, make an entry of the same, under its proper date, in the said book of entries, make a note of the same in the margin of the book, opposite to the original entry, and give to the party a certificate, describing the land sold, the sum paid on account, the balance remaining due, the time and times when such balance shall become due, and that if it shall be duly discharged the purchaser, or his assignee or other legal representative, shall be entitled to a patent for the said lands; he shall also upon any subsequent payment being made, and a receipt from the receiver being produced to him, file the

original receipt, give a receipt for the same to the party, and enter the same to the credit of the party, in a book kept for that purpose, in which he shall open an account, in the name of each purchaser, for each section or half section that may be sold either at public or private sale, and in which he shall charge the party for the whole purchase money, and give him credit for all his payments; making the proper charges and allowances for interest or discount, as the case may be, according to the provisions of the fourth section of this act; and upon the payment being completed, and the account finally settled, he shall give a certificate of the same to the party; and, on producing to the Secretary of the Treasury the same final certificate, the President of the United States is hereby authorized to grant a patent for the lands to the said purchaser, his heirs or assigns; and all patents shall be countersigned by the Secretary of State, and recorded in his office.

SEC. 8. *And be it further enacted*, That the registers, of the land offices, respectively, shall also note on the book of surveys, or original plat transmitted to them, every tract which may be sold, by inserting the letter A on the day when the same is applied for, and the letter P on the day when a receipt for one-fourth part of the purchase money is produced to them, and by crossing the said letter A on the day when the land shall revert to the United States, on failure of the payment of one-fourth part of the purchase money within three months after the date of application. And the said book of surveys or original plat shall be open at all times, in presence of the register, for the inspection of any individual, applying for the same and paying the proper fee.

SEC. 9. *And be it further enacted* That it shall be the duty of the registers of the land offices to transmit quarterly to the Secretary of the Treasury, and to the surveyor general, an account of the several tracts applied for, of the several tracts for which the payment of one-fourth part of the purchase money has been made, of the several tracts which have reverted to the United States on failure of the said payment; and also an account of all the payments of moneys by them entered, according to the receipts produced to them, specifying the sums of money, the names of the persons paying the same, the names of the officers who have received the same, and the tracts for which the same have been paid.

SEC. 10. *And be it further enacted*, That the registers aforesaid shall be precluded from entering on their books any application for lands in their own name; and in the name of any other person in trust for them; and if any register shall wish to purchase any tract of land, he may do it by application in writing to the surveyor general, who shall enter the same on books kept for that purpose by him, who shall proceed in respect to such applications, and to any payments made for the same, in the same manner which the registers by this act are directed to follow, in respect to applications made to them for lands by other persons. The registers shall, nevertheless, note on the book of surveys, or original plat, the appli-

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cations and payments thus by them made, and their right to the pre-emption of any tract shall bear date from the day, when their application for the same shall have been entered by the surveyor general in his own book. And if any person applying for any tract shall, notwithstanding he shall have received information from the register, that the same has already been applied for by the said register, or by any other person, insist to make the application, it shall be the duty of the register to enter the same, noting in the margin that the same tract is already purchased; but upon application of the party made in writing, and which he shall file, he may and shall at any future time enter under its proper date, that the party withdraws his former application, and applies in lieu thereof for any other tract: *Provided, always*, That the party shall never be allowed thus to withdraw his former application, and to apply in lieu thereof for another tract, except when the tract described in his former application shall have been applied for previous to the date of that his former application.

SEC. 11. *And be it further enacted*, That the Secretary of the Treasury shall and may prescribe such further regulations, in the manner of keeping books and accounts, by the several officers in this act mentioned, as to him may appear necessary and proper, in order fully to carry into effect the provisions of this act.

SEC. 12. *And be it further enacted*, That the registers of the land offices, respectively, shall be entitled to receive from the Treasury of the United States, one-half per cent. on all the moneys expressed in the receipts by them filed and entered, and of which they shall have transmitted an account to the Secretary of the Treasury, as directed by this act; and they shall further be entitled to receive, for their own use, from the respective parties, the following fees for services rendered, that is to say: for every original application for land, and a copy of the same, for a section, three dollars; for a half section, two dollars; for every certificate stating that the first fourth part of the purchase-money is paid, twenty-five cents; for every subsequent receipt for moneys paid, twenty-five cents; for the final settlement of account, and giving the final certificate of the same, one dollar; for every copy, either of an application or of the description of any section or half section, or of the plat of the same, or of any entry made on their books, or of any certificate heretofore given by them, twenty-five cents for each; and for any general inspection of the book of surveys, or general plat, made in their presence, twenty-five cents.

SEC. 13. *And be it further enacted*, That the superintendents of the public sales, to be made by virtue of this act, and the superintendents of the sales which have taken place by virtue of the act, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," shall receive five dollars a day whilst engaged in that business; and the accounting officers of the Treasury are hereby authorized to al-

low a reasonable compensation for books, stationery, and clerk hire, in settling the accounts of the said superintendents.

SEC. 14. *And be it further enacted*, That the fee to be paid for each patent for half a section shall be four dollars, and for every section five dollars, to be accounted for by the receiver of the same.

SEC. 15. *And be it further enacted*, That the lands of the United States reserved for future disposition, may be let upon leases by the surveyor general, in sections or half sections, for terms not exceeding seven years, on condition of making such improvement as he shall deem reasonable.

SEC. 16. *And be it further enacted*, That each person who, before the passing of this act, shall have erected, or begun to erect, a grist-mill or saw-mill upon any of the lands herein directed to be sold, shall be entitled to the pre-emption of the section including such mill, at the rate of two dollars per acre: *Provided*, The person or his heirs, claiming such right of pre-emption, shall produce to the register of the land office satisfactory evidence that he or they are entitled thereto, and shall be subject to and comply with the regulations and provisions by this act prescribed for other purchasers.

SEC. 17. *And be it further enacted*, That so much of the "act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," as comes within the purview of this act, be, and the same is hereby, repealed.

Approved, May 10, 1800.

An Act to ascertain the compensation of public Ministers.

Be it enacted, &c., That, exclusive of an outfit, which shall in no case exceed the amount of one year's full salary to any minister plenipotentiary or chargé des affaires, to whom the same may be allowed, the President of the United States shall not allow to any minister plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and expenses; nor a greater sum for the same than four thousand five hundred dollars per annum to a chargé des affaires; nor a greater sum for the same than one thousand three hundred and fifty dollars per annum to the secretary of any minister plenipotentiary.

SEC. 2. *And be it further enacted*, That where any sum or sums of money shall be drawn from the Treasury, under any law making appropriation for the contingent expenses of intercourse between the United States and foreign nations, the President shall be, and he hereby is, authorized to cause the same to be duly settled, annually, with the accounting officers of the Treasury, in manner following, that is to say: by causing the same to be accounted for specially in all instances wherein the expenditure thereof may, in his judgment, be made public, and by making a certificate of the amount of such expenditure as he may think it adviseable not to specify, and every such

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certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

Approved, May 10, 1800.

An Act to make appropriations for the Navy of the United States, during the year one thousand eight hundred.

Be it enacted, &c., That, for defraying the expenses of the navy of the United States, during the year one thousand eight hundred, there shall be, and hereby is, appropriated the sum of two millions, four hundred and eighty-two thousand nine hundred and fifty-three dollars and ninety-nine cents, that is to say: for the pay of the officers of the navy of the United States, the sum of three hundred and ninety-one thousand five hundred and ninety-six dollars; for the subsistence of the officers of the navy, the sum of seventy thousand seven hundred and twenty-two dollars and forty cents; for the pay of the seamen, the sum of eight hundred and eighteen thousand three hundred and forty dollars; for provisions, the sum of six hundred and three thousand six hundred and forty-two dollars and sixty-seven cents; for contingent expenses, including the waste of military stores, the expense of the navy store at Philadelphia, comprising storekeeper's salary, clerk hire, store rent, laborers, portage, and freight, and for making good deficiencies in former appropriations, and for similar expenses at Boston, Newport, Baltimore, Norfolk, New York, and other ports, the sum of three hundred and ninety-three thousand six hundred dollars; for the expense of hospitals, medicines, and hospital stores, the sum of thirty-two thousand six hundred and forty-seven dollars and twenty cents; for the support of the revenue cutters, while employed in the navy service, the sum of ten thousand dollars; for the pay of the officers, non-commissioned officers, and privates, of the marine corps, the sum of ninety-four thousand seven hundred and thirty-four dollars; for subsistence of the officers of the said corps, the sum of eight thousand and eighteen dollars and sixty cents; for clothing for the said corps, the sum of thirty-three thousand five hundred and thirty dollars and seventy-four cents; for military stores for the said corps, the sum of twelve thousand two hundred and seventy-seven dollars and eighty-eight cents; for the contingent expenses of the said corps, including camp equipage, quartermaster's, barrack-master's, and hospital stores, and bounties and premiums, the sum of thirteen thousand eight hundred and forty-four dollars.

SEC. 2. *And be it further enacted,* That the aforesaid appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, May 10, 1800.

An Act supplementary to the act, entitled "An act to establish the Treasury Department."

Be it enacted, &c., That it shall be the duty of the Secretary of the Treasury to digest, prepare,

and lay before Congress, at the commencement of every session, a report on the subject of finance, containing estimates of the public revenue and public expenditures, and plans for improving or increasing the revenues, from time to time, for the purpose of giving information to Congress in adopting modes of raising the money requisite to meet the public expenditures.

Approved, May 10, 1800.

An Act to authorize the issuing certain Patents.

Be it enacted, &c., That it shall be lawful, and the proper officer is hereby authorized, to issue patents or surveys, which have been, or may be made within the territory reserved by the State of Virginia, northwest of the river Ohio, and being part of her cession to Congress, on warrants for military services, issued in pursuance of any resolution of the Legislature of that State, previous to the passing of this act, in favor of persons who had served in the Virginia line on the Continental establishment: *Provided,* That the whole quantity of land, for which patents shall issue by virtue of this act, shall not exceed sixty thousand acres; and that the surveys aforesaid shall be completed and deposited in the office of the Secretary of War, on or before the first day of December, one thousand eight hundred and three: *And provided, also,* That this act shall not give any force or validity to the entries, locations, or surveys, heretofore made in pursuance of these warrants, so far as such entries, locations, or surveys, interfere in any manner with those of persons claiming the same lands under entries, locations, or surveys, heretofore made, in pursuance of warrants granted by the State of Virginia to the officers and soldiers in the line of that State on Continental establishment.

SEC. 2. *And be it further enacted,* That in every case of interfering claims under military warrants, to lands within the territory so reserved by the State of Virginia, when either party to such claims shall lose, or be evicted from the land, every such party shall have a right, and hereby is authorized, to withdraw his, her, or their warrant, respectively, to the amount of such loss or eviction, and to enter, survey, and patent the same, on any vacant land within the bounds aforesaid, and in the same manner as other warrants may be entered, surveyed, and patented.

Approved, May 13, 1800.

An Act to enlarge the powers of Surveyors of the Revenue.

Be it enacted, &c., That whenever it shall appear to the surveyors of the revenue, appointed or to be appointed in any assessment district within the United States, under the act, entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," that any tract of land or dwelling-house, situated within his district, and directed by the said act to be included in the lists, thereby required to be rendered and kept, hath been omitted

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in the said lists, then, and in every such case, it shall be the duty of such surveyor, and he hereby is authorized and required, to inform himself of the value of such tract of land or dwelling-house, by entry, view, or other lawful ways and means, and to make a list and valuation thereof, in the form and manner prescribed in and by the said act, and to enter and record the said lists and valuation with and among the lists and valuations by him to be kept and recorded pursuant to the said act; and to charge the amount of the said valuation to the person or persons to whom the same ought to be charged, pursuant to the said act and to the act, entitled, "An act to lay and collect a direct tax within the United States;" and that where any assessor, no list having been rendered, shall have estimated any tract of unseated land to contain a greater number of acres than the said tract shall, by the patent or survey of the same, actually appear to contain, it shall appear to the surveyor of the assessment district in which the said land shall be situate, by the production of the said patent or survey thereof, that there has been a mistake in estimating the said number of acres, it shall be lawful for such surveyor to credit the proprietor or proprietors thereof with the number of acres so over-charged: *Provided*, That the said credit shall not operate to lessen the sum directed to be collected by virtue of the present law to lay and collect a direct tax: *And provided also*, That no credit shall be valid until the same shall have been approved by the inspector of the survey, or the supervisor of the district, if comprehending but one survey of inspection; and if any error has happened, by charging any person with being the proprietor of any tract or parcel of unseated land, who was not the owner thereof, on the first day of October, one thousand seven hundred and ninety-eight, or by assessing to any person any tract or parcel of unseated land more than once as proprietor thereof, it shall be lawful in all or any of these cases, for the surveyor of the district in which the said error shall have happened, to correct the same by giving the person so charged such credit in his account respecting the said land as may be just and equitable.

SEC. 2. *And be it further enacted*, That, for the services aforesaid, the surveyors of the revenue shall respectively be entitled to, and receive from the United States, the following compensations, that is to say: For every tract of land or dwelling-house, valued and recorded as aforesaid without entry and view, seventy-five cents; for every tract of land or dwelling-house so valued and recorded with entry and view, two dollars; for every mile of necessary travel in going to make such entry and view and returning, five cents; and that the accounts for the said compensations shall be presented to the supervisors of the districts respectively, and if allowed by them, shall be paid by them and credited to their accounts respectively, in the settlement thereof with the Treasury Department.

SEC. 3. *And be it further enacted*, That whenever any person shall have been charged, pursuant to the above mentioned acts or either of them,

or to this act, with the amount of the valuation of any tract of land or dwelling-house; and such person, or his or her legal representatives or assigns, shall afterwards in due course of law have been ejected from such land or dwelling-house, or have had a decision against him, her, or them, upon the title thereof, then, and in every such case, it shall be the duty of the surveyor of the revenue within whose assessment district the said land or dwelling-house shall be situated, and he is hereby authorized and required, on the application of such person, or of his or her legal representatives or assigns, as the case may be, and on the payment or tender by them, or any of them, of the sum of one dollar for every such tract of land or dwelling-house, which sum the said surveyor is hereby authorized to demand and receive in such case, to cancel the valuation on such land or dwelling-house, so far as respects the persons so applying, and to discharge him or her therefrom.

Approved May 13, 1800.

An Act to amend an act, entitled "An act to establish the Judicial Courts of the United States."

Be it enacted, &c., That jurors to serve in the courts of the United States shall be designated by lot, or otherwise, in each State or district respectively, according to the mode of forming juries to serve in the highest courts of law therein now practised; so far as the same shall render such designation practicable by the courts and marshals of the United States.

Approved, May 13, 1800.

An Act to appropriate a certain sum of money to defray the expense of holding a treaty or treaties with the Indians.

Be it enacted, &c., That a sum not exceeding fifteen thousand dollars be appropriated, to defray the expense of such treaty or treaties, as the President of the United States shall deem it expedient to hold with the Indians south of the river Ohio: *Provided*, nothing in this act contained shall be construed to admit an obligation on the part of the United States to extinguish, for the benefit of any State or individual citizen, Indian claims to any lands lying within the limits of the United States; and that the compensation to be allowed to any of the commissioners who may be appointed for negotiating such treaty or treaties, shall not exceed, exclusive of travelling expenses the rate of eight dollars per day during the time of actual service of such commissioner.

SEC. 2. *And be it further enacted*, That the sum aforesaid shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, May 13, 1800.

An Act directing the payment of a detachment of the militia under the command of Major Thomas Johnson, in the year one thousand seven hundred and ninety-four.

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby,

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authorized to settle the accounts of the militia, who served on an expedition, commanded by Major Thomas Johnson, against the Indians, in the year one thousand seven hundred and ninety-four, and that the same be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, May 13, 1800.

An Act to retain a further sum on drawbacks, for the expenses incident to the allowance and payment thereof, and in lieu of stamp duties on debentures.

Be it enacted, &c., That, from and after the thirtieth day of June next, two and one-half per centum on the amount of all drawbacks, allowed or to be allowed by law, upon and for the re-exportation from the United States of goods, wares, or merchandise, imported thereinto, shall be retained for the use of the United States, by the collectors paying such drawbacks, respectively; and in addition to the sum of one and one quarter per centum, heretofore directed by law to be so retained.

Sec. 2. *And be it further enacted,* That in case of the re-exportation from the United States of goods, wares, and merchandise, imported thereinto in foreign ships or vessels, no part of the additional duty imposed by law on such goods, wares, and merchandise, on account of their importation in such ships or vessels, shall be allowed to be drawback; but that the whole of the said additional duty shall be retained, in manner aforesaid, in addition to the rate per centum by this and former acts directed to be retained.

Approved, May 13, 1800.

An Act to authorize certain expenditures, and to make certain appropriations for the year one thousand eight hundred.

Be it enacted, &c., That the Secretary of the Senate, and the Clerk of the House of Representatives, respectively, shall have allowed to them, in the settlement of their accounts with the Treasury Department, the expenses by them respectively incurred, pursuant to the directions of the joint committee of the two Houses, in the various measures adopted by the said committee for doing honor to the memory of George Washington, late President of the United States; and that a sum not exceeding three thousand two hundred dollars shall be and hereby is appropriated for defraying the said expenses.

Sec. 2. *And be it further enacted,* That the President of the United States shall be, and hereby is, authorized and empowered to cause to be given, during the present year, to the Choctaw nation of Indians, such presents, not exceeding the value of two thousand dollars, as he shall judge most suitable; and that the sum of two thousand dollars shall be and hereby is appropriated for that purpose.

Sec. 3. *And be it further enacted,* That the President of the United States shall be, and hereby is, authorized and empowered to cause to be expended a sum not exceeding five thousand dollars, for the reimbursement of such reasonable ad-

vances of money as have heretofore been, or before the first day of September next may be, made by consuls of the United States, in making and supporting the claims of American citizens for captured property, before the tribunals of foreign countries; and that the sum of five thousand dollars shall be and hereby is appropriated for that purpose.

Sec. 4. *And be it further enacted,* That the sum of forty-four thousand dollars shall be, and hereby is, appropriated for defraying the expense that has been, or during the present year may be, incurred by the payment of costs, in prize causes before the court of admiralty and court of appeals in England.

Sec. 5. *And be it further enacted,* That for defraying the expense incident to the visits of Indians to the seat of Government, the sum of seven thousand five hundred dollars shall be and hereby is appropriated.

Sec. 6. *And be it further enacted,* That for defraying, during the present year, the additional compensations granted in the present session to the Secretary of the Senate, and Clerk of the House of Representatives, and to the clerks in their respective offices, the sum of one thousand five hundred dollars shall be and hereby is appropriated.

Sec. 7. *And be it further enacted,* That for defraying the expenses incident, during the present year, to the establishment of the general stamp-office, including the salary of the superintendent of stamps, clerk hire, office rent, and all contingent expenses, the sum of four thousand dollars shall be and hereby is appropriated.

Sec. 8. *And be it further enacted,* That for defraying, during the present year, the expense incident to the establishment of the government of the Indiana Territory, including the salary of the governor, judges and secretary, and all contingent expenses, the sum of four thousand dollars shall be and hereby is appropriated.

Sec. 9. *And be it further enacted,* That for defraying the expense incident to the exploring of copper mines on Lake Superior, the sum of one thousand five hundred dollars shall be and hereby is appropriated.

Sec. 10. *And be it further enacted,* That there be appropriated for the present year, the sum of one hundred thousand dollars, to be applied to the fortification of the ports and harbors of the United States, in aid of the sums heretofore appropriated for that purpose and remaining unexpended.

Sec. 11. *And be it further enacted,* That the aforesaid appropriations shall be paid out of any money in the Treasury of the United States not otherwise appropriated.

Approved, May 13, 1800.

An Act to lay additional duties on certain articles imported.

Be it enacted, &c., That from and after the thirtieth day of June next, the following duties, in addition to those now in force, and payable on the several articles hereinafter enumerated, shall be

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laid, levied, and collected upon those articles respectively, at their importation into the United States from any foreign country or place; that is to say: upon all brown sugar, one-half cent per pound; upon all sugar candy, two cents and one-half per pound; upon all molasses, one cent per gallon; and upon all goods, wares, and merchandises, now paying a duty of ten per cent. ad valorem, two and one-half per centum ad valorem.

Sec. 2. *And be it further enacted*, That from and after the thirtieth day of June next, the duties now imposed and payable on wines, imported into the United States from any foreign port or place, shall cease and be abolished; and that in lieu thereof the following duties shall thenceforth be laid, levied, and collected upon all wines so imported in casks, bottles, or other vessels; that is to say: Upon all Malmsey, Madeira, and London Particular Madeira wine, fifty-eight cents per gallon; upon all other Madeira wine, fifty cents per gallon; upon all Burgundy, Champaign, Rhenish, and Tokay wine, forty-five cents per gallon; upon all Sherry wine, forty cents per gallon; upon all Saint Lucar wine, forty cents per gallon; upon all Claret and other wines not enumerated, when imported in bottles or cases, thirty-five cents per gallon; upon all Lisbon, Oporto, and other Portugal wines, thirty cents per gallon; upon all Teneriffe, Fayal, Malaga, Saint George, and other Western Island wine, twenty cents per gallon; and upon all other wines when imported, otherwise than in bottles or cases, twenty-three cents per gallon.

Sec. 3. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed, in respect to all such goods, wares, and merchandises as aforesaid, as shall after the said thirtieth day of June be imported in ships or vessels not of the United States.

Sec. 4. *And be it further enacted*, That the duties laid by this act shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, with the several duties now in force on the respective articles hereinbefore enumerated.

Sec. 5. *And be it further enacted*, That on account of the additional duties laid on brown sugar and molasses by this act, the following sums respectively shall, from and after the thirty-first day of December next, be added to the drawbacks now allowed by law, on sugar refined within the United States and exported therefrom, and on spirits distilled from molasses within the United States and exported therefrom, that is to say: On all sugar so refined and exported, one cent per pound; and on all spirits so distilled and exported, one cent per gallon; which additional drawbacks shall be allowed and paid according to the regulations now established by law, respecting the present drawbacks allowed on the said articles.

Sec. 6. *And be it further enacted*, That the proceeds of the duties, laid by this act, shall be solely appropriated and applied for the discharge of the interest and principal of the debts of the

United States, heretofore contracted, or to be contracted during the present year.

Approved, May 13, 1800.

An Act appointing the time, and directing the place of the next meeting of Congress.

Be it enacted, &c., That the session of Congress next ensuing the present shall be held at the city of Washington, in the District of Columbia, and said session shall commence on the third Monday of November, one thousand eight hundred.

Approved, May 13, 1800.

An Act to make provision relative to rations for Indians, and to their visits to the seat of Government.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized and empowered to cause such rations as he shall judge proper, and as can be spared from the army provisions without injury to the service, to be issued, under such regulations as he shall think fit to establish, to Indians who may visit the military posts of the United States on the frontiers, or within their respective nations.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and hereby is, further authorized and empowered to cause to be defrayed, on the part of the United States, the reasonable expenses of such Indians as may from time to time visit the seat of Government thereof, for their journeys to, stay at, and return from the same; and also to cause to be given to such Indians, during their stay as aforesaid, such presents as he shall judge necessary.

Sec. 3. *And be it further enacted*, That a separate account of all rations issued, and expenses defrayed as aforesaid, and of the expenditures, occasioned by such presents as are aforesaid, shall be kept at the Department of War.

Approved, May 13, 1800.

An Act supplementary to the act to suspend part of an act, entitled "An act to augment the Army of the United States, and for other purposes."

Be it enacted, &c., That it shall be lawful for the President of the United States to suspend any further military appointments, under the act to augment the army of the United States, and for other purposes; and under the ninth section of the act for the better organizing of the troops of the United States, and for other purposes; according to his discretion, having reference to economy and the good of the service.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and hereby is, authorized and empowered to discharge, on or before the fifteenth day of June next, all such officers, non-commissioned officers, and privates, as have heretofore been appointed, commissioned, or raised, under and by virtue of the said acts, or either of them, except the engineers, inspector of artillery, and inspector of fortifications: *Provided always*, That nothing in this act contained shall be con-

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strued to authorize any reduction of the first four regiments of infantry, the two regiments of artillery and engineers, the two troops of light dragoons, or of the general and other staff, authorized by the several laws for the establishing and organizing of the aforesaid corps.

Sec. 3. *And be it further enacted*, That to each officer, non-commissioned officer, and private, who shall be discharged from service by virtue of this act, there shall be allowed and paid, in addition to the pay and allowances to which they are now entitled by law, a sum of money equal to three months' pay of such officer, non-commissioned officer, and private, respectively.

Approved, May 14, 1800.

An Act supplementary to the act establishing the Mint, and regulating the coins of the United States.

Be it enacted, &c., That until the fourth day of March, one thousand eight hundred and one, the Mint shall remain in the city of Philadelphia, and be carried on as heretofore under the laws now in force; any law to the contrary notwithstanding.

Approved, May 14, 1800.

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That a marble monument be erected by the United States, in the Capitol, at the City of Washington, and that the family of General Washington be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

And be it further resolved, That there be a funeral procession from Congress Hall to the German Lutheran Church, in honor of the memory of General George Washington, on Thursday the twenty-sixth instant, and that an oration be prepared at the request of Congress to be delivered before both Houses on that day; and that the President of the Senate, and Speaker of the House of Representatives, be desired to request one of the members of Congress to prepare and deliver the same.

And be it further resolved, That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

And be it further resolved, That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence; and intreating her assent to the interment of the remains of General George Washington, in the manner expressed in the first resolution.

And be it further resolved, That the President of the United States be requested to issue a proclamation, notifying to the people throughout the United States the recommendation contained in the third resolution.

Approved, December 24, 1799.

Resolution on the death of General Washington.

Resolved, &c., That it be recommended to the people of the United States to assemble on the twenty-second day of February next, in such numbers and manner as may be convenient, publicly to testify their grief for the death of General George Washington, by suitable eulogies, orations, and discourses, or by public prayers.

And it is further resolved, That the President be requested to issue a proclamation for the purpose of carrying the foregoing resolution into effect

Approved, January 6, 1800.

Resolved, &c., That the Secretary of State be, and he is hereby, authorized and directed to procure and transmit to the Governor of the State of North Carolina, a number of the copies of the laws of the United States, equal to the number which the Secretary was heretofore authorized to transmit to the Governor of the said State, by an act, entitled "An act for the more general promulgation of the laws of the United States," to be deposited and distributed agreeably to the provisions of the said act, for the use and information of the citizens of the United States within the said State.

Approved, February 3, 1800.

Resolved, &c., That the President of the United States be requested to present to Captain Thomas Truxtun, a golden medal, emblematical of the late action between the United States' frigate *Constitution*, of thirty-eight guns, and the French ship of war *La Vengeance*, of fifty-four; in testimony of the high sense entertained by Congress of his gallantry and good conduct in the above engagement, wherein an example was exhibited by the captain, officers, sailors, and marines, honorable to the American name, and instructive to its rising navy.

And it is further resolved, That the conduct of James Jarvis, a midshipman in said frigate, who gloriously preferred certain death to an abandonment of his post, is deserving of the highest praise, and that the loss of so promising an officer is a subject of national regret.

Approved, March 29, 1800.

Resolution respecting the copper mines on the south side of Lake Superior.

Resolved, &c., That the President of the United States be authorized to employ an agent, who shall be instructed to collect all material information relative to the copper mines on the south side of Lake Superior, and to ascertain whether the Indian title to such lands as might be required for the use of the United States, in case they should deem it expedient to work the said mines, be yet subsisting, and, if so, the terms on which the same can be extinguished: And that the said agent be instructed to make report to the President in such time as the information he may collect may be laid before Congress at their next session.

Approved, April 16, 1800.

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ACTS PASSED AT THE SECOND SESSION OF THE SIXTH CONGRESS, BEGUN AND HELD,
AT THE CITY OF WASHINGTON, NOVEMBER 17, 1800.

AN ACT extending the privilege of franking letters to the delegate from the Territory of the United States Northwest of the river Ohio; and making provision for his compensation.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the present delegate to Congress from the Territory of the United States Northwest of the river Ohio, and every future delegate from the said Territory, shall be entitled to the privilege of sending and receiving letters, free of postage, on the same terms, and under the same restrictions, as are provided for the members of the Senate and of the House of Representatives of the United States, by the act entitled "An act to establish the Post Office of the United States."

SEC. 2. *And be it further enacted,* That the present delegate from the aforesaid Territory be authorized to receive, free of postage, under the said restrictions, any letters directed to him, and which shall have arrived at the seat of Government, prior to the passage of this act.

SEC. 3. *And be it further enacted,* That the said delegate, and every future delegate from the Territory of the United States Northwest of the river Ohio, shall receive, for his travelling expenses and attendance in Congress, the same compensation as is, or may be allowed, by law, to the members of the House of Representatives of the United States; to be certified and paid in the same manner.

THEODORE SEDGWICK,
Speaker of the House of Representatives.
THOMAS JEFFERSON,
Vice President of the United States,
and President of the Senate.

Approved, December 15, 1800.

JOHN ADAMS,
President of the United States.

AN ACT to provide for the erection and support of a light-house on Cape Poge, at the northeasterly part of Martha's Vineyard.

Be it enacted, &c., That the Secretary of the Treasury shall be, and he is hereby, authorized and directed to cause a sufficient light-house to be erected on Cape Poge, (so called,) on Martha's Vineyard, in the State of Massachusetts, and to appoint a keeper, and otherwise to provide for the support of such light-house, at the expense of the United States: *Provided,* That sufficient land for the accommodation of such light house, together with the jurisdiction thereof, shall be duly and legally granted to, and vested in the United States.

SEC. 2. *And be it further enacted,* That there shall be, and hereby is, appropriated for the erection of said light-house on Cape Poge, a sum not exceeding two thousand dollars, to be paid out of

any moneys which may be in the Treasury of the United States, not otherwise appropriated.
Approved, January 30, 1801.

An Act to provide for the more convenient organization of the Courts of the United States.

Be it enacted, &c., That, from and after the next session of the Supreme Court of the United States, the said court shall be holden by the justices thereof, or any four of them, at the City of Washington, and shall have two sessions in each and every year thereafter, to commence on the first Monday of June and December, respectively; and that if four of the said justices shall not attend within ten days after the times, hereby appointed for the commencement of the said sessions, respectively, the said court shall be continued over till the next stated session thereof: *Provided always,* That any one or more of the said justices, attending as aforesaid, shall have power to make all necessary orders touching any suit, action, appeal, writ of error, process, pleadings, or proceeding, returned to the said court or depending therein, preparatory to the hearing, trial or decision of such action, suit, appeal, writ of error, process, pleadings, or proceedings.

SEC. 2. *And be it further enacted,* That the said court shall have power, and is hereby authorized, to issue writs of prohibition, mandamus, scire facias, habeas corpus, certiorari, procedendo, and all other writs not specially provided for by statute, which may be necessary for the exercise of its jurisdiction, and agreeable to the principles and usages of law.

SEC. 3. *And be it further enacted,* That, from and after the next vacancy that shall happen in the said court, it shall consist of five justices only; that is to say, of one chief justice, and four associate justices.

SEC. 4. *And be it further enacted,* That, for the better establishment of the circuit courts of the United States, the said States shall be, and hereby are, divided into districts, in manner following; that is to say, one to consist of that part of the State of Massachusetts, which is called the district of Maine, and to be called the district of Maine; one to consist of the State of New Hampshire, and to be called the district of New Hampshire; one to consist of the remaining part of the State of Massachusetts, and to be called the district of Massachusetts; one to consist of the State of Rhode Island and Providence Plantations, and to be called the district of Rhode Island; one to consist of the State of Connecticut, and to be called the district of Connecticut; one to consist of the State of Vermont, and to be called the district of Vermont; one to consist of that part of the State of New York which lies north of the counties of Dutchess and Ulster, and to be called the district of Albany;

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one to consist of the remaining part of the State of New York, and to be called the district of New York; one to consist of the State of New Jersey and to be called the district of Jersey; one to consist of that part of the State of Pennsylvania which lies east of the river Susquehanna, and the north-east branch thereof, to the line betwixt Northumberland and Luzerne counties; thence westwardly along said line, betwixt Northumberland and Luzerne, and between Luzerne and Lycoming counties, until the same strikes the line of the State of New York, and to be called the eastern district of Pennsylvania; one to consist of the remaining part of the State of Pennsylvania, and to be called the western district of Pennsylvania; one to consist of the State of Delaware, and to be called the district of Delaware; one to consist of the State of Maryland, and to be called the district of Maryland; one to consist of that part of the State of Virginia, which lies to the eastward of a line to be drawn from the river Potomac at Harper's Ferry, along the Blue Ridge, with the line which divides the counties on the east side thereof from those on the west side thereof, to the North Carolina line, to be called the eastern district of Virginia; one to consist of the remaining part of the said State of Virginia, to be called the western district of Virginia; one to consist of the State of North Carolina, and to be called the district of North Carolina; one to consist of the State of South Carolina, and to be called the district of South Carolina; one to consist of the State of Georgia, and to be called the district of Georgia; one to consist of that part of the State of Tennessee which lies on the east side of Cumberland mountain, and to be called the district of East Tennessee; one to consist of the remaining part of said State, and to be called the district of West Tennessee; one to consist of the State of Kentucky, and to be called the district of Kentucky; and one to consist of the Territory of the United States Northwest of the Ohio, and the Indiana Territory, and to be called the district of Ohio.

SEC. 5. *And be it further enacted*, That where any two adjoining districts of the United States shall be divided from each other, in whole or in part, by any river, bay, water, water-course, or mountain, the whole width of such river, bay, water, water-course, or mountain, as the case may be, shall be taken and deemed, to all intents and purposes, to be within both of the districts so to be divided thereby.

SEC. 6. *And be it further enacted*, That the said districts shall be classed into six circuits, in manner following; that is to say: the first circuit shall consist of the districts of Maine, New Hampshire, Massachusetts, and Rhode-Island; the second, of the districts of Connecticut, Vermont, Albany, and New York; the third, of the districts of Jersey, the eastern and western districts of Pennsylvania and Delaware; the fourth, of the district of Maryland, and the eastern and western districts of Virginia; the fifth, of the districts of North Carolina, South Carolina and Georgia; and the sixth, of the districts of East Tennessee, West Tennessee, Kentucky, and Ohio.

SEC. 7. *And be it further enacted*, That there shall be in each of the aforesaid circuits, except the sixth circuit, three judges of the United States, to be called circuit judges, one of whom shall be commissioned as chief judge; and that there shall be a circuit court of the United States, in and for each of the aforesaid circuits, to be composed of the circuit judges within the five first circuits respectively, and in the sixth circuit, by a circuit judge, and the judges of the district courts of Kentucky and Tennessee; the duty of all of whom it shall be to attend, but any two of whom shall form a quorum; and that each and every of the said circuit courts shall hold two sessions annually, at the times and places following, in and for each district contained within their several circuits respectively: that is to say, the circuit court of the first circuit, at Providence, on the eighth day of May, and at Newport, on the first day of November, in and for the district of Rhode Island; at Boston, in and for the district of Massachusetts, on the twenty-second day of May and the fifteenth day of October; at Portsmouth on the eighth day of June, and at Exeter on the twenty-ninth day of September, in and for the district of New Hampshire; in and for the district of Maine, at Portland on the fifteenth day of June, and at Wiscasset on the twenty-second day of September. The circuit court of the second circuit, at New Haven on the fifteenth day of April; and at Hartford, on the twenty-fifth day of September, in and for the district of Connecticut; at Windsor, on the fifth day of May, and at Rutland on the fifteenth day of October, in and for the district of Vermont; at the city of Albany, in and for the district of Albany, on the twentieth day of May and twenty-fifth day of October; at the city of New York, in and for the district of New York, on the fifth day of June and the tenth day of November. The circuit court of the third circuit, at Trenton, in and for the district of Jersey, on the second days of May and October; at the city of Philadelphia, in and for the Eastern district of Pennsylvania, on the eleventh day of May and eleventh day of October; at Bedford, in and for the Western district of Pennsylvania, on the twenty-fifth day of June and twenty-fifth day of November; and at Dover, in and for the district of Delaware, on the third day of June and twenty-seventh day of October. The circuit court of the fourth circuit at Baltimore, in and for the district of Maryland, on the twentieth day of March and fifth day of November; at Lexington in Rockbridge county, in and for the Western district of Virginia, on the fifth day of April and twentieth day of November; and at the city of Richmond, in and for the eastern district of Virginia, on the twenty-fifth day of April, and fifth day of December. The circuit court of the fifth circuit, at Raleigh, in and for the district of North Carolina, on the first day of June and the first day of November; at Charleston on the sixth day of May, and at Columbia on the thirtieth day of November, in and for the district of South Carolina; at Savannah on the tenth day of April, and at Augusta on the fifteenth day of December, in and for the district of Georgia; and the circuit court of the sixth

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circuit at Knoxville, in and for the district of East Tennessee, on the twenty-fifth day of March and twenty-fifth day of September; at Nashville, in and for the district of West Tennessee, on the twentieth day of April and twentieth day of October; and at Bairdstown, in and for the district of Kentucky, on the fifteenth day of May and fifteenth day of November; and at Cincinnati in and for the district of Ohio, on the tenth day of June and on the tenth day of December; and so on the several days and at the several places aforesaid, in each and every year afterwards: *Provided always*, That when any of the said days shall happen on Sunday, then the said court hereby directed to be holden on such day, shall be holden on the next day thereafter; and provided also, that there shall be appointed, in the sixth circuit, a judge of the United States, to be called a circuit judge, who together with the district judges of Tennessee and Kentucky, shall hold the circuit courts, hereby directed to be holden, within the said circuit; and that whenever the office of district judge, in the districts of Kentucky and Tennessee, respectively, shall become vacant, such vacancies shall respectively be supplied by the appointment of two additional circuit judges, in the said circuit, who, together with the circuit judge first aforesaid, shall compose the circuit court of the said circuit.

SEC. 8. *Provided always, and be it further enacted*, That the said circuit courts hereby established shall have power, and hereby are authorized, to hold special sessions, for the trial of criminal causes, at any other time or times than is hereby directed, at their discretion.

SEC. 9. *And provided also, and be it further enacted*, That if, in the opinion of any judge of any of the said circuit courts, it shall be dangerous to hold the next stated session of such court, for any district within the circuit to which such judge shall belong, at the place by law appointed for holding the same; it shall be lawful for such judge to issue his order, under his hand and seal, to the marshal of such court, directing him to adjourn the said session, to such other place within the same district as the said judge shall deem convenient; which said marshal, thereupon, shall adjourn the said court pursuant to such order, by making, in one or more public papers, printed within the said district, publication of such order and adjournment, from the time when he shall receive such order, to the time appointed by law for commencing such stated session; and that the court so to be held, according to, and by virtue of such adjournment, shall have the same powers and authorities, and shall proceed in the same manner, as if the same had been held at the place appointed by law for that purpose.

SEC. 10. *And be it further enacted*, That the circuit courts shall have, and hereby are invested with, all the powers heretofore granted by law to the circuit courts of the United States, unless where otherwise provided by this act.

SEC. 11. *And be it further enacted*, That the said circuit courts respectively shall have cognizance of all crimes and offences cognizable under the

authority of the United States, and committed within their respective districts, or upon the high seas: and also of all cases in law or equity, arising under the Constitution and laws of the United States, and treaties made, or which shall be made, under their authority; and also of all actions, or suits of a civil nature, at common law, or in equity, where the United States shall be plaintiffs or complainants; and also of all seizures on land or water, and all penalties and forfeitures, made, arising or accruing, under the laws of the United States; which cognizance of all penalties and forfeitures, shall be exclusively of the State courts, in the said circuit courts, where the offence, by which the penalty or forfeiture is incurred shall have been committed within fifty miles of the place of holding the said courts; and also of all actions or suits, matters or things, cognizable by the judicial authority of the United States, under and by virtue of the Constitution thereof, where the matter in dispute shall amount to four hundred dollars, and where original jurisdiction is not given by the Constitution of the United States to the Supreme Court thereof, or exclusive jurisdiction by law to the district courts of the United States: *Provided always*, That in all cases where the title or bounds of land shall come into question, the jurisdiction of the said circuit courts shall not be restrained, by reason of the value of the land in dispute.

SEC. 12. *And be it further enacted*, That the said circuit courts, respectively, shall have cognizance, concurrently with the district courts, of all cases which shall arise, within their respective circuits, under the act to establish a uniform system of bankruptcy throughout the United States; and that each circuit judge, within his respective circuit, shall and may perform all and singular the duties enjoined by the said act, upon a judge of a district court: And that the proceedings under a commission of bankruptcy, which shall issue from a circuit judge, shall in all respects be conformable to the proceedings under a commission of bankruptcy, which shall issue from a district judge, mutatis mutandis.

SEC. 13. *And be it further enacted*, That where any action or suit shall be, or shall have been commenced, in any State court within the United States, against an alien, or by a citizen or citizens of the State in which such suit or action shall be, or shall have been commenced against a citizen or citizens of another State, and the matter in dispute, except in cases where the title or bounds of land shall be in question, shall exceed the sum or value of four hundred dollars, exclusive of costs, and the defendant or defendants in such suit or action shall be personally served with the original process therein, or shall appear thereto; or where, in any suit or action, so commenced or to be commenced, final judgment, for a sum exceeding four hundred dollars, exclusive of costs, shall have been rendered in such State court, against such defendant or defendants, without return of personal service on him, her, or them, of the original process in such suit or action, and without an appearance thereto by him, her, or them, and a writ of error, or writ of review, shall be brought by

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such defendant or defendants, in such State court, to reverse the said judgment; or where any suit or action shall have been, or shall be commenced in any such court, against any person or persons, in any case arising under the Constitution or laws of the United States, or treaties made or to be made under their authority; then, and in any of the said cases, it shall be lawful for the defendant or defendants, in such suit or action, at the time of entering his, her, or their appearance thereto, and for the plaintiff or plaintiffs in such writ of error, or writ of review, at the time when such writ shall be returnable, to file in such court a petition for the removal of such suit, action, writ of error, or writ of review, to the next circuit court of the United States, hereby directed to be holden in and for the district within which such State court shall be holden, and to offer to such State court good and sufficient surety for entering, in such circuit court, on the first day of its next ensuing session, true copies of the process and proceedings, in such action, suit, writ of error, or writ of review, and also for his, her, or their, appearance in the said circuit court, at the period aforesaid, and then and there entering special bail, in the said suit or action, if special bail was originally demandable and demanded therein; whereupon it shall be the duty of the said State court to accept the said security, and to stay all further proceedings in such suit, action, writ of error, or writ of review, and to discharge any bail that may have been given therein: and that the said copies being filed as aforesaid in such circuit court, and special bail, in manner aforesaid, being given therein, such suit, action, writ of error, or writ of review, shall be therein proceeded on, tried, heard, and determined, in the same manner as if there originally commenced or brought: *Provided always*, That any attachment of the goods or estate of the defendant, by the original process in such suit or action, shall hold the goods or estate so attached to answer the final judgment in the said circuit court, in the same manner as by the laws of the State they would have been holden, to answer the final judgment, had it been rendered by the court in which the suit or action was commenced.

Sec. 14. *And be it further enacted*, That when in any suit or action, commenced, or to be commenced, in any State court within the United States, between citizens of the same State, the title or bounds of land shall come into question, it shall be lawful for either party, before trial, to state to the said court, and make affidavit if thereby required, that he, she, or they, doth or do claim under, and at the hearing or trial shall rely upon a right or title to the lands in dispute, under a grant or grants from a State other than that wherein such suit or action is, or shall be pending; and to produce to the said court the original grant or grants so claimed under, or exemplifications thereof, except in cases where the loss of public records shall put it out of his, her, or their power so to do; and to move that the adverse party do inform the said court, forthwith, whether he, she, or they, doth or do claim the land in dispute, under a grant

or grants from the State wherein such suit or action is, or shall be pending; whereupon the said adverse party shall give such information, or otherwise not be allowed to plead, or give in evidence, in the cause any such grant; and that if it shall appear from such information, that the said adverse party doth claim the said lands, under any such grant, or grants, then it shall be lawful for the party moving for such information, if plaintiff or complainant in the said suit or action, to remove the same, by motion, to the next circuit court of the United States, hereby directed to be holden in and for the district within which such State court shall be holden; and if defendant in the said suit or action, then to remove the same, as aforesaid, in the same manner, and under the like regulations, terms, and conditions, as are provided in and by the preceding section of this act, in the cases of actions thereby directed to be removed; and that the said circuit courts respectively, into which such suit or action shall be removed, pursuant to the provisions in this section contained, shall proceed in, try, hear and determine the same, in like manner as if therein brought, by original process: *Provided always*, That neither party, so removing any suit or action, shall be allowed, on the trial or hearing thereof, to plead, give evidence of, or rely on, any other title than that by him, her, or them, so stated as aforesaid, as the ground of his, her, or their claim.

Sec. 15. *And be it further enacted*, That any one judge of any of the said circuit courts shall be, and hereby is, authorized and empowered to hold the same, from day to day, not exceeding five days, to impanel and charge the grand jury, to order process on any indictment or presentment found in the said court; to direct subpoenas for witnesses to attend the same, and the requisite process on the non-attendance of witnesses or jurors; to receive any presentment or indictment from the grand jury; to take recognizance for the attendance of any witness, or for the appearance of any person, presented or indicted; to award and issue process, and order commitment for contempts; to commit any person presented or indicted, for want of security or otherwise; to order publication of testimony; to issue commissions for the examination of witnesses, where allowable by law; to grant rules and orders of survey; to take order, where necessary, relative to jurors, to serve at the next stated session of the said court; to direct the examination of witnesses *de bene esse*, where allowed by law; to make rules of reference, by consent of parties; and to grant continuances on the motion of either party, upon such terms and conditions, as shall be agreeable to practice and the usages of law; and that if some other judge of the said court shall not attend the same within five days after the commencement thereof, inclusive, then the said court shall, by virtue of this act, be continued over to the next stated session thereof; in which case, all writs, process, and recognizances, returned and returnable to the said court, and all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, depending before the said court, shall, by virtue of this

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act, be continued to the next stated session of the same.

SEC. 16. *And be it further enacted*, That no person shall be arrested in one of the said districts, for trial in another, before any of the said circuit courts, in any civil action; and that no civil action or suit shall be brought before any of the said courts, by any original process, against an inhabitant of the United States, in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving the writ; nor shall any district or circuit court have cognizance of any suit to recover the contents of any promissory note, or other chose in action, in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents, if no assignment had been made, except in cases of foreign bills of exchange.

SEC. 17. *And be it further enacted*, That the trials of all issues of fact, before any of the circuit courts hereby established, except in cases of equity, and admiralty, and maritime jurisdiction, shall be by jury.

SEC. 18. *And be it further enacted*, That any judge of the said circuit courts shall be, and hereby is, authorized and empowered, in all cases cognizable by the circuit court, whereof he shall be a judge, to grant writs of ne-exeat, and writs of injunction to stay waste, or to stay proceedings at law, on any judgment rendered by such circuit court, upon the like terms and conditions as such writs may be now granted, by the justices of the Supreme Court of the United States.

SEC. 19. *And be it further enacted*, That if, in the opinion of any circuit judge, of the circuit within which such district may be situated, the life or lives of any person or persons, confined in the prison of such district, under or by virtue of any law of the United States, shall be in imminent danger, arising from the place of such confinement, it shall, in such case, be lawful for such judge, and he is hereby authorized and empowered, to direct the marshal of such district to remove, or cause to be removed, the person or persons so confined to the next adjacent prison, there to be confined until he, she, or they, may safely be removed back to the place of his, her, or their first confinement; and that the said removals shall be at the expense of the United States.

SEC. 20. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings of what nature or kind soever, depending or existing in any of the present circuit courts of the United States, or in any of the present district courts of the United States, acting as circuit courts, shall be, and hereby are, continued over to the circuit courts established by this act, in manner following, that is to say: all such as shall, on the fifteenth day of June next, be depending and undetermined, or shall then have been commenced and made returnable before the district court of Maine, acting as a circuit court, to the next circuit court hereby directed to be holden within and for the district of Maine; all such as shall be depending and undetermined before the circuit court for the district of New Hampshire, to the

next circuit court hereby directed to be holden within and for the district of New Hampshire; all such as shall be depending and undetermined before the circuit court for the district of Massachusetts, to the next circuit court hereby directed to be holden within and for the district of Massachusetts; all such as shall be depending and undetermined before the circuit court of the district of Rhode Island, to the next circuit court hereby directed to be holden within and for the district of Rhode Island; all such as shall be depending or undetermined before the circuit court for the district of Connecticut, to the next circuit court hereby directed to be holden within and for the district of Connecticut; all such as shall be depending and undetermined before the circuit court for the district of Vermont, to the next circuit court hereby directed to be holden within and for the district of Vermont; all such as shall be depending and undetermined before the circuit court for the district of New York, to the next circuit court hereby directed to be holden within and for the district of New York; all such as shall be depending and undetermined before the circuit court for the district of New Jersey, to the next circuit court hereby directed to be holden within and for the district of New Jersey; all such as shall be depending and undetermined before the circuit court for the district of Pennsylvania, to the next circuit court hereby directed to be holden within and for the eastern district of Pennsylvania; all such as shall be depending and undetermined before the circuit court for the district of Delaware, to the next circuit court hereby directed to be holden within and for the district of Delaware; all such as shall be depending and undetermined before the circuit court for the district of Maryland, to the next circuit court hereby directed to be holden within and for the district of Maryland; all such as shall be depending and undetermined before the circuit court for the district of Virginia, to the next circuit court hereby directed to be holden within and for the eastern district of Virginia; all such as shall be depending and undetermined before the circuit court for the district of North Carolina, to the next circuit court hereby directed to be holden within and for the district of North Carolina; all such as shall be depending and undetermined before the circuit court for the district of South Carolina, to the next circuit court hereby directed to be holden within and for the district of South Carolina; all such as shall be depending and undetermined before the circuit court for the district of Georgia, to the next circuit court hereby directed to be holden within and for the district of Georgia; all such as shall be depending and undetermined before the district court of Tennessee, acting as a circuit court, to the next circuit court hereby directed to be holden within and for the district of East Tennessee; all such as shall be depending and undetermined before the district court of Kentucky, acting as a circuit court, to the next circuit court hereby directed to be holden within and for the district of Kentucky; and shall there be equally regular and effectual, and shall be proceeded in in the same

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manner as they could have been if this act had not been made.

SEC. 21. *And be it further enacted*, That for the better despatch of the business of district courts of the United States, in the districts of Jersey, Maryland, Virginia, and North Carolina, additional district courts shall be established therein in manner following, that is to say: The said district of Jersey shall be divided into two districts; one to consist of that part thereof which is called East New Jersey, and to be called the district of East Jersey; a district court in and for which shall be holden at New Brunswick, by the district judge of the district of Jersey, on the fourth Tuesday in May, and on the fourth Tuesday in November, in each and every year; and one other to consist of the remaining part of the said district of Jersey, and to be called the district of West Jersey, a district court in and for which shall be holden at Burlington, by the district judge last aforesaid, on the fourth Tuesday in February, and on the fourth Tuesday in August, in each and every year: And a new district shall be established in the districts of Maryland and Virginia, to consist of the Territory of Columbia, of all that part of the district of Maryland, which lies west and southwest of the river Patuxent, and of the western branch thereof, and south of the line which divides the county of Montgomery in the last mentioned district, from the county of Frederick, and of a line to be drawn from the termination of the last mentioned line, a northeast course to the western branch of the Patuxent; and of all that part of the district of Virginia which lies north of the river Rappahannock, and east of the line which divides the counties of Fauquier and Loudon, in the last mentioned district, from the counties of Fairfax, Prince William, and Stafford; which new district shall be called the district of Potomac, and a district court in and for the same shall be holden at Alexandria, by the district judge of the district of Maryland, on the first Tuesday in April, and the first Tuesday in October, in each and every year: And there shall be a new district established in the district of Virginia, to be called the district of Norfolk, and to consist of all that part of the said district of Virginia, which is contained within the counties of Isle of Wight, Nansemond, Norfolk, Princess Anne, James City, New Kent, Warwick, York, Elizabeth City, Gloucester, Matthews, Middlesex, Accomac, and Northampton; a district court in and for which district of Norfolk shall be holden at Norfolk by the district judge of the district of Virginia, on the first Tuesday in February, on the first Tuesday in May, on the first Tuesday in August, and on the first Tuesday in November, in each and every year: And the district of North Carolina shall be divided into three districts; one to consist of all that part thereof, which, by the laws of the State of North Carolina, now forms the districts of Edenton and Halifax; which district shall be called the district of Albemarle, and a district court in and for the same shall be holden at Edenton, by the district judge of the district of North Carolina, on the third Tuesday in April,

on the third Tuesday in August, and on the third Tuesday in December, in each and every year; one other to be called the district of Pamptico, and to consist of all that part of the district of North Carolina aforesaid, which, by the laws of the said State, now forms the district of Newbern, and Hillsborough, together with all that part of the district of Wilmington which lies to the northward and eastward of the river called New river, and for which district of Pamptico, a district court shall be holden at Newbern, by the district judge last aforesaid, on the first Tuesday in April, on the first Tuesday in August, and on the first Tuesday in December, in each and every year: And one other, to consist of the remaining part of the said district of North Carolina, and to be called the district of Cape Fear, in and for which a district court shall be holden at Wilmington, by the district judge last aforesaid, on the last Tuesday in March, on the last Tuesday in July, and on the last Tuesday in November, in each and every year; which said courts, hereby directed to be holden, shall severally and respectively have and exercise within their several and respective districts the same powers, authority, and jurisdiction, in all cases and respects whatsoever, which are vested by law in the district courts of the United States.

SEC. 22. *And be it further enacted*, That there shall be clerks for each of the said courts, to be appointed by the judge thereof, which clerks shall reside and keep the records of the said courts, at the places of holding the courts, whereto they respectively shall belong, and shall perform the same duties, and be entitled to and receive the same emoluments and fees, which are established by law for the clerks of the district courts of the United States respectively; and that the marshals and attorneys of the United States, for the districts which are hereby divided, or within the limits of which new districts are hereby erected, shall continue to be marshals and attorneys for the courts hereby appointed to be holden within the limits of their present districts respectively, and shall have, exercise, and perform, within the jurisdictions of those courts respectively, all the powers and duties, and receive all the fees and emoluments, appointed and established by law for the marshals and attorneys of the United States.

SEC. 23. *And be it further enacted*, That the stated sessions of the district court of the district of Maryland shall hereafter be holden in Baltimore only.

SEC. 24. *And be it further enacted*, That the district courts of the United States, in and for the districts of Tennessee and Kentucky, shall be, and hereby are, abolished; and that all and singular the powers, authority, and jurisdiction, of the said courts respectively, shall be and hereby are vested in, and shall be exercised by the circuit courts, by this act directed to be holden in and for the districts of East Tennessee, West Tennessee, and Kentucky, respectively, within the limits of their respective jurisdictions; and that the circuit judges to be appointed for the sixth circuit aforesaid, severally, shall be invested with, possess, and ex-

ercise, all and singular the powers now vested by law in the district judges of the United States.

SEC. 25. *And be it further enacted*, That, in case of the inability of the district judge of either of the districts of the United States to perform the duties of his office, and satisfactory evidence thereof being shown to the circuit court, in and for such district, it shall be the duty of such circuit court, from time to time, as occasion may require, to direct one of the judges of said circuit court to perform the duties of such district judge, within and for said district, for and during the period the inability of the district judge shall continue: And it shall be the duty of the circuit judge, to whom the duties of the district judge shall be assigned in manner aforesaid, and he is hereby authorized, to perform the duties of said district judge during the continuance of his disability.

SEC. 26. *And be it further enacted*, That the several circuit courts hereby established shall have power to appoint clerks for their respective courts; that is to say, one for each district within which such court is or shall be directed by law to be holden; which clerks respectively shall take the same oath or affirmation, and give the like bonds as are by law required to be taken and given by the clerk of the Supreme Court of the United States, and shall be entitled to demand and receive for their services, respectively, the same fees, to be recovered in the same manner as have heretofore been allowed by law, for the like services, to the clerks of the circuit and district courts of the United States.

SEC. 27. *And be it further enacted*, That the circuit courts of the United States, heretofore established, shall cease and be abolished; and that the records and office papers of every kind, belonging to those courts respectively, shall be safely kept by the clerks thereof, who shall continue in all respects to act as heretofore in the business of the said courts, until it shall otherwise be ordered by the courts hereby established.

SEC. 28. *And be it further enacted*, That the supreme, circuit, and district courts of the United States shall be, and hereby are, constituted courts of record.

SEC. 29. *And be it further enacted*, That all writs and processes whatsoever, issuing from any of the circuit courts hereby established, shall, after the first day of April next, bear test of the presiding judge of such court; before which time, they shall bear test of the Chief Justice of the United States; all which said writs and processes shall be signed by the clerks of the courts, respectively, from which the same shall issue, and shall be made returnable to the next stated or special session of such court, and all writs and processes which have issued, or may issue, before the first day of April next, returnable to the circuit courts heretofore established, or to any district court acting as a circuit court, shall be returned to the circuit courts hereby established, and shall be there proceeded in in the same manner as they could had they been originally returnable to the circuit courts hereby established.

SEC. 30. *And be it further enacted*, That every justice of the Supreme Court of the United States, and every judge of any circuit or district court, shall be, and hereby is, authorized and empowered to grant writs of habeas corpus for the purpose of inquiring into the cause of commitment, and thereupon to discharge from confinement, on bail or otherwise: *Provided always*, That no writ of habeas corpus, to be granted under this act, shall extend to any prisoner or prisoners in jail, unless such prisoner or prisoners be in custody, under or by color of the authority of the United States, or be committed for trial before some court of the same; or be necessary to be brought into court to give testimony.

SEC. 31. *And be it further enacted*, That the several courts of the United States shall be, and hereby are, authorized and empowered to grant new trials and rehearings, on motion and cause shown, and to make and establish all necessary rules and regulations for returning writs, filing pleas, and other proceedings, and for regulating the practice and enforcing the orderly conduct of business in the said courts respectively: *Provided always*, That the said rules and regulations be not repugnant to the laws of the United States: and that all the courts of the United States, and each of the justices and judges thereof, shall be, and hereby are, authorized and empowered, to administer all necessary oaths and affirmations, and to bind to the peace or good behaviour, with surety where necessary, in all cases arising under the authority of the United States.

SEC. 32. *And be it further enacted*, That every person who shall be appointed a judge of any circuit court, hereby established, shall, before he shall begin to exercise the duties of his office, take the following oath or affirmation, that is to say:

"I, A B, do solemnly swear (or affirm) that I will administer justice without respect to persons; and will do equal right to all persons; and will, in all things, faithfully and impartially discharge and perform all the duties incumbent on me as a judge of —, according to the best of my abilities and understanding, and to the Constitution and laws of the United States."

SEC. 33. *And be it further enacted*, That, from all final judgments or decrees, in any of the district courts of the United States, an appeal where the matter in dispute, exclusive of costs, shall exceed the sum or value of fifty dollars, shall be allowed to the circuit court next to be holden, in the district where such final judgment or judgments, decree or decrees, may be rendered; and the circuit court or courts are hereby authorized and required to receive, hear, and determine such appeal; and that, from all final judgments or decrees in any circuit court, in any cases of equity, of admiralty, and maritime jurisdiction, and of prize or no prize, an appeal, where the matter in dispute, exclusive of costs, shall exceed the sum or value of two thousand dollars, shall be allowed to the Supreme Court of the United States; and that upon such appeal, a transcript of the libel, bill, answer, deposition, and all other proceedings of what kind soever in the cause, shall be transmit-

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ted to the said Supreme Court; and that no new evidence shall be received in the said court, on the hearing of such appeal; and that such appeals shall be subject to the same rules, regulations, and restrictions, as are prescribed by law in the case of writs of error; and that the said Supreme Court shall be, and hereby is, authorized and required, to receive, hear, and determine such appeals.

SEC. 34. *And be it further enacted*, That all final judgments in civil actions at common law, in any of the circuit courts hereby established, whether brought by original process in such court, or removed thereto from any State court, and all final judgments in any of the district courts of the United States may, where the matter in dispute, exclusive of costs, shall exceed the sum or value of two thousand dollars, be re-examined and reversed or affirmed, in the Supreme Court of the United States, by writ of error: whereto shall be annexed, and returned therewith, at the day and place therein mentioned, an authenticated transcript of the record and assignment of errors, and prayer for reversal, and also a citation to the adverse party, signed by a judge of such circuit court, or by the district judge, as the case may be; which citation shall be served on the adverse party personally, or by leaving a true copy thereof at his or their usual place or places of residence, at least thirty days before the time mentioned in such writ of error, for the return thereof.

SEC. 35. *And be it further enacted*, That the stipulation, bond, or security, taken upon any writ of error or appeal to be brought or allowed as aforesaid, shall be returned by the judge taking the same, to the clerk or register of the court where the judgment or decree complained of was rendered, to be by him annexed to the transcript of the record, hereby directed to be sent up to the Supreme Court of the United States.

SEC. 36. *And be it further enacted*, That there shall be appointed, in and for each of the districts established by this act, a marshal, whose duty it shall be to attend the circuit courts of the United States hereby established, when sitting within such district, and who shall have and exercise, within such district, the same powers, perform the same duties, be subject to the same penalties, give the same bond, with sureties, take the same oath, be entitled to and receive the same compensation and emoluments, and in all respects be subject to the same regulations, as are now prescribed by law, in respect to the marshals of the United States heretofore appointed: *Provided always*, That the several marshals of the United States, now in office, shall, during the periods for which they were respectively appointed, unless sooner removed by the President of the United States, be and continue marshals for the several districts hereby established, within which they respectively reside; and shall perform the duties, exercise the powers, and receive the emoluments, hereby directed to be performed, exercised, and received, by marshals therein.

SEC. 37. *And be it further enacted*, That there shall be appointed, for each of the districts hereby

established, a person learned in the law, to act as attorney for the United States within such district, and in the circuit and district courts which may be holden therein; which attorney shall take an oath or affirmation for the faithful performance of the duties of his office, and shall prosecute, in such district, all delinquents for crimes and offenses cognizable under the authority of the United States, and all civil actions or suits in which the United States shall be concerned, except actions or suits in the Supreme Court of the United States; and shall be entitled to, and receive, for their services, respectively, such compensations, emoluments, and fees, as by law are or shall be allowed, to the district attorneys of the United States: *Provided always*, That the district attorneys of the United States now in office shall, severally and respectively, be attorneys for those districts hereby established, within which they reside, until removed by the President of the United States; and shall perform the duties, exercise the powers, and receive the emoluments, hereby directed to be performed, exercised, and received by the attorney of the United States therein.

SEC. 38. *And be it further enacted*, That jurors and witnesses attending any of the courts, hereby established, shall be entitled to, and receive the same compensations, respectively, as heretofore have been allowed by law to jurors and witnesses, attending the circuit and district courts of the United States.

SEC. 39. *And be it further enacted*, That the records of the several circuit courts, hereby established, shall hereafter be kept at the respective places at which the said courts are hereby directed to be holden: *Provided always*, That in the district wherein there are more than one place directed by this act for holding said circuit courts, the records of the circuit court in such district shall hereafter be kept in either of such places, as the said court in such district shall direct.

SEC. 40. *And be it further enacted*, That the privilege from arrest of every person going to, attending at, or returning from, any court of the United States, shall be computed and continue, from the time of his or her departure from his or her habitation, until his or her return thereto: *Provided*, That such time shall not exceed one day, Sundays excluded, for every twenty miles of the distance, which such person must necessarily travel in so going and returning, over and above the time of attendance.

SEC. 41. *And be it further enacted*, That each of the circuit judges of the United States, to be appointed by virtue of this act, shall be allowed, as a compensation for his services, an annual salary of two thousand dollars, to be paid quarter-yearly at the Treasury of the United States; except the judges of the sixth circuit, who shall be allowed the sum of fifteen hundred dollars each, to be paid in like manner; and that the salaries of the district judges of Kentucky and Tennessee shall be, and hereby are, severally augmented to the like sum of fifteen hundred dollars annually, to be paid in like manner.

Approved, February 13, 1801.

Acts of Congress.

An Act making the port of Biddeford and Pepperelborough, and the port of New Bedford, in Massachusetts, ports of entry for ships or vessels, arriving from the Cape of Good Hope, and from places beyond the same.

Be it enacted, &c., That the port of Biddeford and Pepperelborough, and the port of New Bedford, in the Commonwealth of Massachusetts, be, and they are hereby made, ports of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same.

Approved, February 18, 1801.

An Act regulating the grants of land appropriated for the refugees from the British Provinces of Canada and Nova Scotia.

Be it enacted, &c., That the surveyor general be, and he is hereby, directed to cause those fractional townships of the sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-second ranges of townships, which join the southern boundary line of the military lands, to be subdivided into half sections, containing three hundred and twenty acres each; and to return a survey and description of the same to the Secretary of the Treasury, on or before the first Monday of December next; and that the said lands be, and they are hereby, set apart and reserved for the purpose of satisfying the claims of persons entitled to lands under the act, entitled, "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia."

Sec. 2. *And be it further enacted,* That the Secretary of the Treasury shall, within thirty days after the survey of the lands shall have been returned to him as aforesaid, proceed to determine, by lot, to be drawn in the presence of the Secretaries of State and of War, the priority of location of the persons entitled to lands as aforesaid. The persons, thus entitled, shall severally make their locations on the second Tuesday of January next, and the patents for the lands thus located shall be granted in the manner directed for military lands, without requiring any fee whatever.

Sec. 3. *And be it further enacted,* That the following persons, claiming lands under the above-mentioned act, shall, respectively, be entitled to the following quantities of land, that is to say: Martha Walker, widow of Thomas Walker, John Edgar, P. Francis Cazeau, John Allen, and Seth Harding, respectively, two thousand two hundred and forty acres each; Jonathan Eddy, Colonel James Livingston, and Parker Clark, respectively, one thousand two hundred and eighty acres each; and the heirs of John Dodge, one thousand two hundred and eighty acres; Thomas Faulkner, Edward Faulkner, David Gay, Martin Brooks, Lieutenant Colonel Bradford, Noah Miller, Joshua Lamb, Atwood Fales, John Starr, William How, Ebenezer Gardner, Lewis F. Delesdernier, John McGown, and Jonas C. Minot, respectively, nine hundred and sixty acres each; and the heirs of Simon Chester, nine hundred and sixty acres; Jacob Vander Heyden, John Livingston, James Crawford, Isaac Danks, Major B. Von Heer, Benjamin

Thompson, Joseph Bindon, Joseph Levittre, Lieutenant William Maxwell, John D. Mercier, James Price, Seth Noble, Martha Bogart, relict of Abraham Bogart, and formerly relict of Daniel Tucker, and John Halsted, respectively, six hundred and forty acres each; David Jenks, Ambrose Cole, James Cole, Adam Johnson, the widow and heirs of Colonel Jeremiah Duggan, Daniel Earl, junior, John Pasdell, Edward Chinn, Joseph Cone, and John Torreyre, respectively, three hundred and twenty acres each; Samuel Fales, one hundred and sixty acres; which several tracts of land shall, except the last, be located in half sections by the respective claimants.

Approved, February 18, 1801.

An Act to establish the district of Bristol, and to annex the towns of Kittery and Berwick to the district of Portsmouth.

Be it enacted, &c., That, from and after the thirty-first day of March next, the towns of Bristol, Warren, and Barrington, in the State of Rhode Island and Providence Plantations, and all the shores and waters around the same, within the following limits, viz: a line beginning at the middle of the bay, between Mount Hope and Common Fence Point, running southwesterly through the middle of Bristol Ferry, and continuing such course until it strikes a point of equal distance from Rhode Island to Prudence Island, from thence northwardly on a straight line to the westernmost part of Nahant Point, and from thence to the western shore of Bullock's Point, shall be a district, to be called the district of Bristol, of which the port of Bristol shall be the sole port of entry, and a collector for said district shall be appointed to reside at Bristol, and Warren and Barrington shall be ports of delivery only, and a surveyor shall be appointed to reside at each of the ports of Bristol and Warren; and the surveyor at Warren shall also be surveyor for the port of Barrington.

Sec. 2. *And be it further enacted,* That said port of Bristol shall also be a port of entry, for all ships or vessels arriving from the Cape of Good Hope, or places beyond the same.

Sec. 3. *And be it further enacted,* That, from and after the said thirty-first day of March next, the towns of Kittery and Berwick, in the State of Massachusetts, shall be annexed to the district of Portsmouth, in New Hampshire, as ports of delivery only: *Provided,* That nothing herein contained shall be construed to prevent the master or commander of any ship or vessel, having merchandise on board, destined for either of the said places, from making entry at his option, with the collector of the district of York and obtaining permits for the delivery thereof, as heretofore.

Approved, February 25, 1801.

An Act freeing from postage all letters and packets to John Adams.

Be it enacted, &c., That all letters and packets to John Adams, now President of the United States, after the expiration of his term of office, and during his life, shall be carried by the mail, free of postage.

Approved, February 25, 1801.

Acts of Congress.

An Act to continue in force the acts laying duties on licenses for selling wines and foreign distilled spirits by retail, and so much of the act laying certain duties on snuff and refined sugar as respects a duty on refined sugar, on property sold at auction, and on carriages for the conveyance of persons.

Be it enacted, &c., That an act passed on the fifth day of June, in the year one thousand seven hundred and ninety-four, entitled, "An act laying duties on licenses for selling wines and foreign distilled spirituous liquors by retail;" and that so much of an act passed on the fifth day of June, in the year one thousand seven hundred and ninety-four, entitled, "An act laying certain duties upon snuff and refined sugar," as respects a duty upon refined sugar; and that an act passed on the ninth day of June in the year one thousand seven hundred and ninety-four, entitled, "An act laying duties on property sold at auction;" and which acts were, by an act passed on the third day of March, in the year one thousand seven hundred and ninety-five, continued in force until the first day of March, in the year one thousand eight hundred and one, shall be, and the same are hereby continued in force, without limitation of time: anything in any former act to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That so much of the thirteenth section of an act, passed on the twenty-eighth day of May, in the year one thousand seven hundred and ninety-six, entitled, "An act laying duties upon carriages for the conveying of persons, and repealing the former act for that purpose," as limits the duration of said act, shall be, and the same is hereby, repealed, and said act is hereby continued in force, without limitation of time.

Approved, February 25, 1801.

An Act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, for the appointment of a health officer.

Be it enacted, &c., That the consent of Congress be, and is hereby, granted and declared to the operation of an act of the General Assembly of Maryland, passed the twenty-eighth day of December, one thousand seven hundred and ninety-three, entitled, "An act to appoint a health officer for the port of Baltimore, in Baltimore county," so far as to enable the State aforesaid to collect a duty of one cent per ton, on all vessels coming into the district of Baltimore from a foreign voyage, for the purposes in said act intended.

SEC. 2. *And be it further enacted,* That this act shall be in force for three years, from the passing thereof, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, February 27, 1801.

An Act to allow the transportation of goods, wares, and merchandise, to and from Philadelphia and Baltimore, by the way of Appoquinimink and Sassafra.

Be it enacted, &c., That goods, wares, and merchandise, which lawfully might be transported to or from the city of Philadelphia and Baltimore,

by the way of Elkton, Bohemia or Frenchtown, and Port Penn, Appoquinimink, New Castle, Christiana Bridge, Newport, or Wilmington, shall and may lawfully be transported, to and from the city of Philadelphia and Baltimore, by the way of Appoquinimink and Sassafra river, and shall be entitled to all the benefits and advantages, and shall be subject to all the provisions, regulations, limitations, and restrictions, existing in the case of goods, wares, and merchandise, transported by any of the routes before mentioned.

Approved, February 27, 1801.

An Act for the relief of Arnold Henry Dorhman, or his legal representatives.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to issue a patent for the thirteenth township, in the seventh range, to Arnold Henry Dorhman, or his legal representatives, agreeably to a resolution of Congress of the first day of October, in the year one thousand seven hundred and eighty-seven.

Approved, February 27, 1801.

An Act concerning the District of Columbia.

Be it enacted, &c., That the laws of the State of Virginia, as they now exist, shall be and continue in force in that part of the District of Columbia, which was ceded by the said State to the United States, and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland, as they now exist, shall be and continue in force in that part of the said district, which was ceded by that State to the United States, and by them accepted as aforesaid.

SEC. 2. *And be it further enacted,* That the said District of Columbia shall be formed into two counties; one county shall contain all that part of the said district which lies on the east side of the river Potomac, together with the island therein, and shall be called the county of Washington; the other county shall contain all that part of the said district which lies on the west side of said river, and shall be called the county of Alexandria; and the said river in its whole course through said district shall be taken and deemed, to all intents and purposes, to be within both of said counties.

SEC. 3. *Be it further enacted,* That there shall be a court in said district, which shall be called the Circuit Court of the District of Columbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges, resident within said District, to hold their respective offices during good behaviour; any two of whom shall constitute a quorum; and each of the said judges shall, before he enter on his office, take the oath or affirmation provided by law to be taken by the judges of the circuit courts of the United States; and said court shall have power to appoint a clerk

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of the court in each of said counties, who shall take the oath and give a bond with sureties, in the manner directed for clerks of the district courts in the act to establish the Judiciary of the United States.

SEC. 4. *Be it further enacted*, That said court shall, annually, hold four sessions in each of said counties, to commence as follows, to wit: for the county of Washington, at the city of Washington, on the fourth Mondays of March, June, September, and December; for the county of Alexandria, at Alexandria, on the second Mondays of January, April, July, and the first Monday of October.

SEC. 5. *Be it further enacted*, That said court shall have cognizance of all crimes and offences committed within said district, and of all cases in law and equity between parties, both or either of which shall be resident or be found within said District, and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising, or accruing, under the laws of the United States.

SEC. 6. *Provided, and be it further enacted*, That all local actions shall be commenced in their proper counties, and that no action or suit shall be brought before said court, by any original process against any person, who shall not be an inhabitant of, or found within said district at the time of serving the writ.

SEC. 7. *Be it further enacted*, That there shall be a Marshal for the said District, who shall have the custody of the jails of said counties, and be accountable for the safe-keeping of all prisoners legally committed therein; and he shall be appointed for the same term, shall take the same oath, give a bond with sureties in the same manner, shall have generally, within said District, the same powers, and perform the same duties, as is by law directed and provided in the case of marshals of the United States.

SEC. 8. *Be it further enacted*, That any final judgment, order, or decree, in said circuit court, wherein the matter in dispute, exclusive of costs, shall exceed the value of one hundred dollars, may be re-examined and reversed or affirmed in the Supreme Court of the United States, by writ of error or appeal; which shall be prosecuted in the same manner, under the same regulations, and the same proceedings shall be had therein as is, or shall be, provided in the case of writs of error on judgments, or appeals upon orders or decrees, rendered in the circuit court of the United States.

SEC. 9. *Be it further enacted*, That there shall be appointed an Attorney of the United States for said District, who shall take the oath and perform all the duties required of the district attorneys of the United States; and the said attorney, marshal, and clerks, shall be entitled to receive for their respective services, the same fees, perquisites, and emoluments, which are by law allowed respectively to the attorney, marshal, and clerk of the United States, for the district of Maryland.

SEC. 10. *Be it further enacted*, That the chief judge, to be appointed by virtue of this act, shall

receive an annual salary of two thousand dollars, and the two assistant judges, of sixteen hundred dollars each, to be paid quarterly, at the Treasury of the United States.

SEC. 11. *Be it further enacted*, That there shall be appointed in and for each of the said counties, such number of discreet persons to be justices of the peace, as the President of the United States shall from time to time think expedient, to continue in office five years; and such justices, having taken an oath for the faithful and impartial discharge of the duties of the office, shall, in all matters, civil and criminal, and in whatever relates to the conservation of the peace, have all the powers vested in, and shall perform all the duties required of, justices of the peace, as individual magistrates, by the laws hereinbefore continued in force in those parts of said District, for which they shall have been respectively appointed; and they shall have cognizance in personal demands to the value of twenty dollars, exclusive of costs; which sum they shall not exceed, any law to the contrary notwithstanding; and they shall be entitled to receive for their services the fees allowed for like services by the laws hereinbefore adopted and continued, in the eastern part of said District.

SEC. 12. *And be it further enacted*, That there shall be appointed in and for each of the said counties, a Register of Wills, and a Judge, to be called the Judge of the Orphans' Court, who shall each take an oath for the faithful and impartial discharge of the duties of his office; and shall have all the powers, perform all the duties, and receive the like fees, as are exercised, performed, and received, by the Registers of Wills and Judges of the Orphans' Court within the State of Maryland; and appeals from the said courts shall be to the circuit court of said District, who shall therein have all the powers of the Chancellor of the said State.

SEC. 13. *And be it further enacted*, That in all cases where judgment or decrees have been obtained, or hereafter shall be obtained, on suits now depending in any of the courts of the Commonwealth of Virginia, or of the State of Maryland, where the defendant resides or has property within the District of Columbia, it shall be lawful for the plaintiff in such case, upon filing an exemplification of the record and proceedings in such suits, with the clerk of the court of the county where the defendant resides, or his property may be found, to sue out writs of execution thereon, returnable to the said court, which shall be proceeded on, in the same manner as if the judgment or decree had originally been obtained in said court.

SEC. 14. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, depending or existing in the courts of hustings for the towns of Alexandria and Georgetown, shall be, and hereby are, continued over to the circuit courts, to be holden by virtue of this act, within the District of Columbia, in manner following; that is to say, all such as shall then be depending and undetermined before the court of hustings for the town of Alex-

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andria, to the next circuit court hereby directed to be holden in the town of Alexandria; and all such as shall then be depending and undetermined before the court of hustings for Georgetown, to the next circuit court hereby directed to be holden in the City of Washington: *Provided nevertheless*, That where the personal demand in such cases, exclusive of costs, does not exceed the value of twenty dollars, the justices of the peace, within their respective counties, shall have cognizance thereof.

SEC. 15. *And be it further enacted*, That all writs and processes whatsoever, which shall hereafter issue from the courts hereby established within the District, shall be tested in the name of the chief judge of the District of Columbia.

SEC. 16. *And be it further enacted*, That nothing in this act contained shall in any wise alter, impeach, or impair the rights, granted by or derived from the acts of incorporation of Alexandria and Georgetown, or of any other body corporate or politic, within the said District, except so far as relates to the judicial powers of the Corporations of Georgetown and Alexandria.

Approved, February 27, 1801.

An Act supplementary to an act, entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments."

Be it enacted, &c. That all suits, and process, and proceedings, which on the third day of July, one thousand eight hundred, were pending in any court of either of the counties, which, by the act entitled "An act to divide the Territory of the United States Northwest of the Ohio into two separate governments," has been included within the Indiana Territory; and that all suits, process, and proceedings, which, on the aforesaid third day of July, were pending in the general court of the Territory of the United States Northwest of the Ohio, in consequence of any writ of removal or order for trial at bar, had been removed from either of the counties now within the limits of the Indiana Territory aforesaid, shall be, and they are hereby, revived and continued; and the same proceedings, before the rendering of final judgment, and thereafter, may and shall be had, in the same courts, in all suits and process aforesaid, and in all things concerning the same, as by law might have been had in case the said Territory of the United States Northwest of the Ohio had remained undivided.

Approved, March 2, 1801.

An Act to add to the District of Massac, on the Ohio, and to discontinue the District of Palmyra, in the State of Tennessee, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage."

Be it enacted, &c. That the District of Massac, in addition to the territory it already possesses, shall include all waters, shores, and inlets, now included within the District of Palmyra, and all rivers, waters, shores and inlets, lying within the State of Tennessee.

SEC. 2. *And be it further enacted*, That, from

and after the thirtieth day of June next, so much of the "Act to regulate the collection of duties on imports and tonnage," as establishes the District of Palmyra, in the State of Tennessee, shall be repealed, except as to the recovery and receipts of such duties on goods, wares, and merchandise, and on the tonnage of ships or vessels, as shall have accrued, and as to the recovery and distribution of fines, penalties, and forfeitures, which shall have been incurred before and on the said day.

Approved, March 2, 1801.

An Act making appropriations for the Military Establishment of the United States, for the year one thousand eight hundred and one.

Be it enacted, &c. That, for defraying the expenses of the Military Establishment of the United States, for the year one thousand eight hundred and one, the pay and subsistence of the officers and men, bounties, and premiums, the clothing, hospital, ordnance, Quartermaster's and Indian departments, the defensive protection of the frontiers, the contingent expenses of the War Department, for the fabrication of cannon and arms, and purchase of ammunition, and for the payment of military pensions, the sum of two millions, ninety-three thousand and one dollars be, and is, hereby appropriated; that is to say,

For the pay of the Army of the United States, four hundred and eighty thousand three hundred and ninety-six dollars.

For the subsistence of the Army, three hundred and six thousand three hundred and ninety-five dollars.

For forage, the sum of seven thousand six hundred and eighty dollars.

For horses to replace those which may die, or become unfit for service, the sum of five thousand dollars.

For clothing, the sum of one hundred and forty-one thousand five hundred and thirty dollars.

For bounties and premiums, the sum of forty-two thousand dollars.

For the hospital department, the sum of twenty thousand dollars.

For the ordnance department, the sum of one hundred thousand dollars.

For the Quartermaster's department, the sum of one hundred and sixty-five thousand dollars.

For paying annuities to the following nations of Indians in pursuance of treaties: To the Six Nations, Cherokees, Chickasaws, and Creeks, the sum of fifteen thousand dollars; and for presents to the Choctaws, two thousand dollars.

For defraying the expense of the transportation of annuities to the Indian tribes, ten thousand dollars.

For promoting civilization among the Indian tribes, and pay of temporary agents, and rations to Indians at the different military posts, the sum of forty-five thousand dollars.

For the defensive protection of the frontiers of the United States, including the erection and repairs of forts and fortifications, the sum of thirty thousand dollars.

For loss of stores, allowances to officers on being ordered to distant commands, and for special purposes, advertising and apprehending deserters, printing, purchasing maps, and other contingencies, the sum of thirty thousand dollars.

For the annual allowance to the invalids of the United States, for their pensions, from the fifth of March, one thousand eight hundred and one, to the fourth of March, one thousand eight hundred and two, the sum of ninety-three thousand dollars.

For the fortification of ports and harbors within the United States, the sum of two hundred thousand dollars.

For the fabrication of cannon and small arms, and the purchase of ammunition, being the balance of appropriations unexpended, which have been carried to the surplus fund, four hundred thousand dollars.

SEC. 2. *And be it further enacted*, That the foregoing appropriations shall be paid out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, March 2, 1801.

An Act to amend the act, entitled "An act to establish a General Stamp Office."

Be it enacted, &c., That whenever any person, or persons, shall pay to a collector of the revenue the duty chargeable by law on a deed, instrument, or writing, on which the stamp duty chargeable by law shall not have been paid, together with the further sum of ten dollars, and shall obtain the endorsement and receipt of such collector, upon such deed, instrument, or writing therefor, agreeably to the provisions of an act, entitled "An act to establish a general stamp office," passed on the twenty-third day of April, in the year one thousand eight hundred, it shall be lawful for such person, or persons, to produce such deed, instrument, or writing, to the supervisor of the revenue within whose district such person or persons shall reside; which supervisor thereupon shall certify under his hand and seal, and upon some part of the said deed, instrument, or writing, that the same, so endorsed, has been produced to him, and that the said endorsement is, in his belief, genuine; after which, said endorsement and certificate, and not otherwise, such deed, instrument, or writing, shall be to all intents and purposes as valid and available as if the same had been or were stamped, counter-stamped, or marked as by law required; anything in any act to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That so much of the act, entitled "An act to establish a general stamp office," as requires certain duties to be performed by the surveyors of the revenue, shall be, and the same is hereby, repealed.

Approved, March 3, 1801.

An Act providing for a Naval Peace Establishment, and for other purposes.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized,

whenever the situation of public affairs shall, in his opinion, render it expedient, to cause to be sold, they being first divested of their guns and military stores, which are to be carefully preserved, all or any of the ships and vessels belonging to the Navy, except the frigates United States, Constitution, President, Chesapeake, Philadelphia, Constellation, Congress, New York, Boston, Essex, Adams, John Adams, and General Greene; and also to lay up all the frigates thus to be retained, except such as are directed by this act to be kept in constant service in time of peace.

SEC. 2. *And be it further enacted*, That six of the frigates to be retained shall be kept in constant service in time of peace, and shall be officered and manned as the President of the United States may direct, not to exceed, however, two-thirds of the present complement of seamen, and ordinary seamen; the residue of the frigates to be retained shall be laid up in convenient ports, and there shall be permanently attached to each frigate so laid up, one sailing master, one boatswain, one gunner, one carpenter, and one cook, one sergeant or corporal of marines, and eight marines; and to the large frigates, twelve, and to the small frigates, ten seamen; the sailing master shall have the general care and superintendence of the ship; and shall generally execute such duties of a purser as may be necessary.

SEC. 3. *And be it enacted*, That, from and after the day when the reduction of the Navy shall take place as aforesaid, the Navy ration shall consist of as follows: on Sunday, fourteen ounces of bread, one and a quarter pound of beef, half a pound of flour, one quarter of a pound of suet, one half pint of distilled spirits; Monday, fourteen ounces of bread, one pound of pork, half pint of pease, one half pint of distilled spirits; Tuesday, fourteen ounces of bread, one pound of beef, two ounces of cheese, one half pint of distilled spirits; Wednesday, fourteen ounces of bread, one pound of pork, half pint of rice, one half pint of distilled spirits; Thursday, fourteen ounces of bread, one and a quarter pound of beef, half pound of flour, quarter pound of suet, one half-pint of distilled spirits; Friday, fourteen ounces of bread, four ounces of cheese, two ounces of butter, half pint of rice, half pint of molasses, one half pint of distilled spirits; Saturday, fourteen ounces of bread, one pound of pork, half pint of pease, half pint of vinegar, one half pint of distilled spirits.

SEC. 4. *Be it further enacted*, That the President of the United States retain in the Navy service, in time of peace, nine captains, thirty-six lieutenants, and one hundred and fifty midshipmen, including those employed on board of the six frigates to be kept in service; and that he be authorized to discharge all the other officers in the Navy service of the United States; but such of the aforesaid officers as shall be retained in the service shall be entitled to receive no more than half their monthly pay during the time when they shall not be under orders for actual service.

SEC. 5. *Be it further enacted*, That all the commissioned and warrant officers, who shall be discharged as aforesaid, shall be entitled to receive

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four months pay over and above what may be due to them respectively at the time of their discharge.

Approved, March 3, 1801.

An Act concerning the Mint.

Be it enacted, &c., That the Mint shall remain in the city of Philadelphia, until the fourth day of March, in the year one thousand eight hundred and three.

SEC. 2. *And be it further enacted,* That during the continuance of the Mint at the city of Philadelphia, the duties now enjoined on the Chief Justice of the United States, the Secretary and Comptroller of the Treasury, the Secretary for the Department of State, and the Attorney General of the United States, by the eighteenth section of the act, entitled "An act establishing a Mint, and regulating the coins of the United States," passed the second day of April, one thousand seven hundred and ninety-two, shall be performed by the District Judge of Pennsylvania, the Attorney for the United States in the district of Pennsylvania, and the Commissioner of Loans for the State of Pennsylvania.

Approved, March 3, 1801.

An Act authorizing the Secretary of the Treasury to employ Clerks for completing the abstracts of the valuations of lands and dwelling-houses, and the enumeration of slaves.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to employ clerks, for such compensation as he shall judge reasonable, to complete the abstracts of the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States, under the direction of the commissioners authorized to direct the completing of such abstracts, in those States where clerks cannot be procured by the commissioners, for the compensation allowed by law to clerks for performing that business, agreeably to the provisions of the following acts; that is to say an act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves within the United States;" an act, entitled "An act supplementary to the act, entitled 'An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States;'" and an act, entitled "An act to provide for equalizing the valuation of unseated lands."

Approved, March 3, 1801.

An Act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio.

Be it enacted, &c., That any person or persons, and the legal representative or representatives of any person or persons, who, before the first day of January in the year of our Lord one thousand eight hundred, had made any contract or contracts in

writing, or by any note or memorandum thereof in writing, either with John Cleves Symmes, or with any of his associates, or who had made to him or them, any payment of money for the purchase of lands, situate between the Miami rivers, within the limits of a survey made by Israel Ludlow, in conformity to an act of Congress of the twelfth of April, one thousand seven hundred and ninety-two, and not comprehended within the limits of a tract of land conveyed to John Cleves Symmes and his associates, by letters patent, bearing date the thirtieth of September, one thousand seven hundred and ninety-four, in the Territory of the United States Northwest of the Ohio, shall be entitled to a preference, in becoming the purchasers, from the United States, of all the lands so contracted for, at the price of two dollars per acre, exclusive of the surveying fees, and other incidental expenses; and payment be made therefor, to the Treasurer of the United States, or the receiver of public moneys for the lands of the United States at Cincinnati, in like instalments, and under the same conditions, as directed by the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory of the United States Northwest of the Ohio and above the mouth of Kentucky river;'" *Provided however,* That no interest shall be charged upon any of the instalments until they respectively become payable.

SEC. 2. *And be it further enacted,* That every person claiming the benefit of the first section of this act, shall, on or before the first day of November next, deliver to the receiver of public moneys, for the lands of the United States at Cincinnati, a notice in writing, stating the nature and extent of his claim or contract; and if any person shall neglect to give such notice of his claim or contract, or having given the same, shall neglect to make application for the purchase thereof, as hereinafter directed, or shall fail in making the first payment before the first of January next, all his right of pre-emption, on the terms aforesaid, shall cease and become void.

SEC. 3. *And be it further enacted,* That the aforesaid receiver of public moneys, on being paid the fees hereinafter provided, shall receive every such notice of claim, or statement thereof, and give a receipt therefor, and carefully put and preserve on file every such paper or writing, and lay the same before the commissioners, when met, for settling and adjusting the claims aforesaid.

SEC. 4. *And be it further enacted,* That the aforesaid receiver of public moneys, and two other persons, who shall be appointed by the President of the United States, alone shall be commissioners for the purpose of ascertaining the rights of persons claiming the benefits of this act, who, previous to entering on the duties of their appointment, shall respectively take and subscribe the following oath or affirmation, before some person qualified to administer oaths, to wit: "I ———, do solemnly swear, or affirm, that I will impartially exercise and discharge the duties imposed upon me, by an act of Congress, entitled 'An act giving a right of pre-emption to certain persons

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who have contracted with John Cleves Symmes, or his associates, for lands lying between the Miami rivers, in the Territory of the United States Northwest of the Ohio, 'to the best of my understanding and ability;' and it shall be the duty of the said commissioners to meet at Cincinnati, between the first and tenth day of November next, of which meeting three weeks' previous notice shall be given by them in a public newspaper printed at Cincinnati; and they, or a majority of them, so met, shall not adjourn to any other place, or for a longer time than three days, until they have finally completed the business of the said appointment; and they, or any two of them, shall have power to hear, and decide in a summary manner, all matters respecting all such claims of which notice may have been filed, pursuant to the third section of this act, also to administer oaths, and examine witnesses, and such other testimony as may be adduced, and to determine thereon according to justice and equity; which determination shall be final; and when it shall appear to them that the claimant is entitled to the right of pre-emption on the terms aforesaid, they shall give a certificate thereof, stating as accurately as may be, the quantity and local situation of the lands to which he may be entitled, directed to the register of the land office at Cincinnati, or when the said register may be a claimant to the surveyor general, copies of which certificates shall be by them recorded, in a book to be provided for that purpose, and deposited for safe keeping with the register of the land office.

SEC. 5. *And be it further enacted*, That the aforesaid register and surveyor general, respectively, upon application of any person or persons, who shall produce a certificate of the commissioners aforesaid, to him directed, before the first day of January next, and shall also produce a receipt from the Treasurer of the United States, or the aforesaid receiver of public moneys, for at least one-fourth part of the purchase money, and also for the payment of three dollars for each half section or smaller quantity, and shall pay him the fees in like case provided by the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States in the Territory of the United States Northwest of the Ohio, and above the mouth of Kentucky river,'" shall admit such person or persons to become a purchaser or purchasers of the land designated in the said certificate, and shall receive the said certificate, and preserve it on file, and make an entry of the application in his book, kept for the purpose, and on any of the three last payments being made in advance, he shall allow the purchaser the like discount as is allowed by the fourth clause of the fifth section of the act last above recited; and on payment in full, and a final settlement had, he shall give his certificate thereof; upon producing which to the Secretary of the Treasury, a patent shall issue in like manner as is provided by the said act last above recited.

SEC. 6. *And be it further enacted*, That the said receiver of public moneys shall be entitled to have and receive, to his own use, from the respect-

ive claimants, the following fees, that is to say; for filing a notice and evidence of claim, or statement thereof, twenty-five cents; for giving a copy thereof, twelve and a half cents for every one hundred words: And the said commissioners shall, as a full compensation for their services, be entitled, jointly, to have and receive from the respective claimants, that is to say; for every determination, and entering the result in their book, at the rate of three dollars for every section; for every certificate, and recording the same, at the rate of one dollar for every section.

SEC. 7 *And be it further enacted*, That all the aforesaid tract of country shall be surveyed by the surveyor general, as soon as may be after the first day of September next, in the manner hereinafter directed.

1. So much of the said tract as lies between the northern boundary line, and the aforesaid patent of John Cleves Symmes, and associates, and Israel Ludlow's southern boundary of the seventh entire range of townships, shall be laid off into sections, agreeably to northwardly and southwardly lines, run under the direction of John Cleves Symmes; and the marks thereon made, at the time of running the aforesaid lines, for the corners of sections shall be established by the surveyor general, and eastwardly and westwardly lines shall be run to intersect the aforesaid northwardly and southwardly lines, in the corresponding marked points.

2. And the residue of the said tract lying north of the aforesaid southern boundary of the seventh entire range, shall be laid off into sections, according to such uniform rule and method, as, in the opinion of the surveyor general, shall best secure the rights and interest of those who are entitled to pre-emption.

3. Such divisions shall be made of sections, according to the claim of such who obtain pre-emption right, and the contents of each and every section, and such division thereof, shall be ascertained, and the surveyor general shall prepare and transmit a plan thereof to the aforesaid register, immediately after the said survey shall be completed, and also forward a copy thereof to the Secretary of the Treasury.

SEC. 8. *And be it further enacted*, That all persons, availing themselves of a pre-emption under this act, shall make application for a section, or any part or parts of a section or sections, according to the estimated quantity of six hundred and forty acres to a section, and the amount of the excess or deficiency shall be added to or deducted from the last payment, and the purchaser shall make payment for and hold the quantity returned and expressed in the plats, let the quantity be more or less.

SEC. 9. *And be it further enacted*, That the duties of the surveyor general, of the aforesaid register and receiver of public moneys, as nearly as may be consistent with this act, shall respectively be the same as directed in and by the last recited act, and the fees and emoluments shall respectively be the same as provided in the said act last recited.

SEC. 10. *And be it further enacted*, That after completing the surveys, agreeably to this act, re-

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serving the lots marked sixteen in each township, or fractional part of a township, in which the same may be, for the purposes expressed in the ordinance of Congress of the twentieth of May, one thousand seven hundred and eighty-five, the residue of the lands, and so many of the aforesaid pre-emptions as shall become forfeited by reason of failures of payment, shall be sold agreeably to the last recited act.

SEC. 11. *And be it further enacted*, That this act shall have full operation and effect, anything in any former law to the contrary notwithstanding.

Approved, March 3, 1801.

An Act supplementary to the act, entitled "An act concerning the District of Columbia."

Be it enacted, &c., That the Circuit Courts for the District of Columbia shall be, and they are hereby, invested with the same power respecting constables, inspectors, and the inspection of tobacco and flour, surveyors, mills, highways and ferries, for the county of Alexandria, as have heretofore been vested in county courts of the Commonwealth of Virginia; and for the county of Washington, the same power and authority as have been heretofore exercised by the county and levy courts of the State of Maryland; with power to appoint to all other offices necessary for the said district, under the laws of the respective States of Maryland and Virginia: And all officers for whom no special provision is made by this act, or the act to which this is a supplement, shall receive the same fees and emoluments as they have respectively received under the jurisdiction of the respective States.

SEC. 2. *And be it further enacted*, That all indictments shall run in the name of the United States, and conclude, against the peace and government thereof: And all fines, penalties and forfeitures accruing under the laws of the States of Maryland and Virginia, which by adoption have become the laws of this district, shall be recovered with costs, by indictment or information in the name of the United States, or by action of debt, in the name of the United States and of the informer; one half of which fine shall accrue to the United States, and the other half to the informer; and the said fines shall be collected by or paid to the marshal, and one half thereof shall be by him paid over to the board of commissioners hereinafter established, and the other half to the informer; and the marshal shall have the same power regarding their collection, and be subject to the same rules and regulations as to the payment thereof, as the sheriffs of the respective States of Maryland and Virginia are subject to in relation to the same.

SEC. 3. *And be it further enacted*, That all felonies committed within the county of Alexandria shall be punishable in the same manner as such crimes were punishable by the laws of Virginia, as they existed prior to the year one thousand seven hundred and ninety-six; and the circuit court for the said county of Alexandria shall possess and exercise the same powers and jurisdiction, civil and criminal, as is now possessed and exercised by the district courts of Virginia.

SEC. 4. *And be it further enacted*, That the magistrates, to be appointed for the said district, shall be and they are hereby constituted a board of commissions within their respective counties, and shall possess and exercise the same powers, perform the same duties, receive the same fees and emoluments, as the levy courts or commissioners of county for the State of Maryland possess, perform and receive; and the clerks and collectors, to be by them appointed, shall be subject to the same laws, perform the same duties, possess the same powers, and receive the same fees and emoluments as the clerks and collectors of the county tax of the State of Maryland are entitled to receive.

SEC. 5. *And be it further enacted*, That the clerks of the circuit court shall, within their respective districts, be bound to perform the same duties, respecting the recording of deeds and all other services, and shall receive the same fees and emoluments for the same) except in those cases provided for in the ninth section of the act to which this is a supplement) as are now performed and received by the clerks of the counties of the respective States of Maryland and Virginia.

SEC. 6. *And be it further enacted*, That in all cases where the Constitution or laws of the United States provide that criminals and fugitives from justice, or persons held to labor in any State, escaping into another State, shall be delivered up, the chief justice of the said district shall be, and he is hereby empowered and required to cause to be apprehended and delivered up such criminal, fugitive from justice, or persons fleeing from service, as the case may be, who shall be found within the district, in the same manner and under the same regulations as the executive authority of the several States are required to do the same; and all executive and judicial officers are hereby required to obey all lawful precepts or other process issued for that purpose, and to be aiding and assisting in such delivery.

SEC. 7. *And be it further enacted*, That it shall be lawful for the sheriffs and collectors of public dues for the counties of Montgomery and Prince George's in the State of Maryland, and for the sheriffs of Fairfax county in the Commonwealth of Virginia, and they shall respectively have full power and authority, to enter into those parts of the now District of Columbia, which were heretofore within the limits of their respective bailiwicks, for the purposes of collecting, by distress or otherwise, as they were heretofore authorized to do, all officers fees, State taxes and county taxes, levies, fines and other public dues, which were due on the first Monday of December, one thousand eight hundred, and still remain uncollected, from persons residing or having property, subject to the payment of such officers fees, State taxes and county taxes, and levies within the said district; and all disputes or controversies that do or may arise between such sheriff or collector, and the person or persons from whom he or they may claim such public dues, shall be cognizable before and tried by the respective State courts to whom the trial of such controversies heretofore belonged, and not before the court of the District of Columbia.

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SEC. 8, *And be it further enacted*, That it shall and may be lawful for the sheriffs of the said counties of Montgomery and Prince George's in the State of Maryland, and for the sheriff of Fairfax county in the Commonwealth of Virginia, and they shall respectively have full power and authority, to enter into those ports parts of the now District of Columbia, which were heretofore within the limits of their respective bailiwicks, for the purpose of arresting and conducting to the respective jails under their keeping and care, as they heretofore might have done had the law to which this is a supplement never passed, each and every person within the limits of the District of Columbia, upon whom such sheriff hath heretofore served a writ of *capias ad satisfaciendum*, *capias ad respondendum*, attachment or other process, issuing from any State court, which commands and requires such sheriff to have the body of the person before the court from which such writ or process hath issued.

SEC. 9. *And be it further enacted*, That where by this act, and the act to which this is a supplement, appointments are authorized to be made by the circuit court of the district, it shall be lawful for the chief judge, with one of the associate justices of the said court, to make such appointments.

Approved, March 3, 1801.

An Act authorizing the remission of duties on certain teas destroyed by fire, while under the care of the officers of the customs, in Providence, Rhode Island.

Be it enacted, &c., That the collector of the district of Providence, in the State of Rhode Island, be, and he is hereby, authorized and directed to remit the duties on such part of a certain quantity of teas, imported into the port of Providence, in the ship called the *Resource*, on the twenty-ninth day of July one thousand eight hundred, by Thomas Lloyd Halsey, John Corlis, William F. Megee, and Henry Smith, of the town of Providence, merchants, and on such part of a certain quantity of teas, imported into the said port, in the ship called the *Ann and Hope*, on the twenty-second day of August, in the same year, by John Innes Clarke, of the said town, merchant, as remained deposited to secure the payment of duties under the care of the officers of the customs, on the twenty-first day of January last, in the aforesaid town of Providence, and shall be proved, to the satisfaction of the said collector, to have been burned and destroyed.

Approved, March 3, 1801.

An Act to amend the act altering the district of Bermuda Hundred and City Point.

Be it enacted, &c., That, from and after the passing of this act, the master or commander of any ship or vessel arriving within the districts of Petersburg or Richmond, laden with goods, wares, and merchandise, belonging or consigned to persons resident within both the said districts, shall make entry of such ship or vessel, in manner already prescribed by law, with the collector of that district wherein the owner or consignee, or the hus-

band or acting manager of such ship or vessel, shall actually reside: And the said master or commander shall, at the time of making the entry aforesaid, deliver a duplicate manifest of the cargo, as now required by law, to the said collector, whose duty it shall then be to certify the same as a true copy, and to transmit it to the collector of the other district; and the delivery of such goods, wares, or merchandise, shall be authorized by permits from the collector of each district, respectively, in which the same shall have been duly entered according to law: *Provided*, That no bona fide importer, owner, or consignee, of goods, wares, or merchandise, residing in either district, shall be admitted to make an entry of such goods, wares or merchandise, with the collector of the district in which such importer, owner or consignee, shall not reside: *And provided also*, That all entries for goods, wares, or merchandise, made by agents, for persons residing in other districts, shall be made with the collector of the district in which such ship or vessel may discharge.

Approved, March 3, 1801.

An Act making appropriations for the support of Government for the year one thousand eight hundred and one.

Be it enacted, &c., That for the support of Government, and to discharge certain claims and expenses hereafter enumerated, the following sums be and are hereby appropriated, that is to say:

For the compensation granted by law to the President and Vice-President of the United States, thirty thousand dollars.

For the like compensation to the members of the Senate and House of Representatives, their officers and attendants, one hundred and ninety-three thousand four hundred and seventy dollars.

For the contingent expenses of the two Houses of Congress, including the payment of certain articles of furniture purchased for the accommodation of Congress, and not provided for by former appropriations, seventeen thousand dollars.

For the compensation granted by law to the judges of the United States, the Attorney General, the district attorneys, and marshals, eighty-three thousand four hundred dollars.

For defraying the expense of courts, jurors, and witnesses, and for defraying the expenses of prosecutions for offences against the United States, and for safe keeping of prisoners, thirty thousand dollars.

For compensation to the Secretary of the Treasury, clerks and persons employed in his office, eleven thousand three hundred and nine dollars, and eighty-one cents.

For expenses of stationery, printing, translating foreign languages, allowances to persons employed in receiving and transmitting passports and sea-letters, and all other contingent expenses in the office of the Secretary of the Treasury, eight hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventy-seven dollars and eight cents.

Acts of Congress.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty dollars and ninety-three cents.

For expense of stationery, printing, and all other contingent expenses in the Auditor's office, seven hundred and fifty dollars.

For compensation to the Treasurer, clerks, and other persons employed in his office, six thousand three hundred and forty-eight dollars and ninety-eight cents.

For expense of stationery, printing, and all other contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Commissioner of the Revenue, clerks, and other persons employed in his office, six thousand two hundred and fifty-three dollars and six cents.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner of the Revenue, nine hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars and one cent.

For expense of stationery, printing, and all other contingent expenses in the Register's office, two thousand eight hundred dollars.

For compensation to the Superintendent of Stamps, clerks, and persons employed in his office, and for making good a deficiency in former appropriations for the stamp office, five thousand nine hundred and ninety dollars and twenty-four cents.

For expense of stationery, printing, and all other contingent expenses in the stamp office, six hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For fire-wood and candles for the offices of the Treasury, including the stamp office, and other contingencies, four thousand dollars.

For defraying the expense of stating and printing the public accounts for the year one thousand eight hundred and one, one thousand two hundred dollars.

For making good the deficiency of former appropriations, for the expense of removing the books and records of the Treasury from Philadelphia to Trenton, in the year one thousand seven hundred and ninety-nine, two thousand six hundred and thirty-nine dollars and seventy-six cents.

For the expense of new office furniture for the Treasury, at the city of Washington, two thousand dollars.

For flooring the Treasury, and incidental expenses for securing the buildings and records of the Treasury, three hundred and fifty-nine dollars and eighty-three cents.

For paying two watchmen for the Treasury, six hundred dollars.

For the expense of two buildings for messengers of the Treasury, and sinking two wells for the Treasury, five thousand one hundred and twenty-two dollars.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the Commissioners of Loans, and an allowance to certain loan officers in lieu of clerk hire, twelve thousand one hundred dollars.

For defraying the authorized expenses of the several loan offices, two thousand nine hundred dollars.

For compensation to the Secretary of State, clerks, and persons employed in his office, eleven thousand three hundred and sixty dollars.

For the contingent expenses of the Office of State, thirteen thousand five hundred dollars.

For compensation to the Director of the Mint, officers, clerks, and other persons employed in the Mint establishment, seventeen thousand six hundred dollars.

For repairs, and all other contingent expenses in the Mint establishment, six thousand three hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and ten dollars.

For the compensation of two additional clerks employed by the Secretary of War in copying papers in the office of the Secretary of the Treasury, to replace those lately burnt in the War Office, one thousand two hundred dollars.

For such additional compensation to the clerks of the several Departments of the Treasury, of State, of War, of the Navy, and of the General Post Office, not exceeding for each department, respectively, fifteen per cent. in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, as the Secretaries of the said departments and the Postmaster General may, respectively, think reasonable for the present year, to be distributed as the said Secretaries and the Postmaster General, respectively, shall think proper, to the clerks in their departments, respectively, eleven thousand eight hundred and eighty-five dollars.

For an additional allowance to the chief clerk in the office of the Secretary of the Navy, for his services in the year one thousand eight hundred, the sum of three hundred dollars.

For contingent expenses attending the office of Secretary of War, and to make good the deficiency of former appropriations, five thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the Accountant's office, one thousand dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for contingent expenses of the same, four thousand four hundred and sixty-six dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand one hundred and ten dollars.

For contingent expenses in the office of the Secretary of the Navy, three thousand three hundred dollars.

For compensation to the Accountant of the Navy Department, clerks, and persons employed in his office, and to make good a deficiency in the appropriation of the last year, eleven thousand four hundred and forty-nine dollars and forty-one cents.

For the contingent expenses in the Accountant's office, seven hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the General Post Office, nine thousand nine hundred and sixty dollars.

For the contingent expenses of the General Post Office, two thousand one hundred and twelve dollars and fifty cents.

For compensation to the Surveyor General, the contingent expenses in his office, and the expense of executing surveys of the public land Northwest of the river Ohio, twenty-eight thousand two hundred dollars.

For salaries to the Governor, Secretary, and Judges of the Territory Northwest of the river Ohio, and the contingent expenses of that Government, five thousand five hundred dollars.

For salaries to the Governor, Secretary, and Judges of the Mississippi Territory, and the contingent expenses of that Government, five thousand five hundred dollars.

For salaries to the Governor, Secretary, and Judges of the Indiana Territory, and the contingent expenses of that Government, five thousand five hundred dollars.

For the discharge of such demands against the United States, unprovided for, as shall be ascertained and admitted in due course of settlement at the Treasury, two thousand dollars.

For satisfying annuities and grants to Isaac Van Wart, John Paulding, David Williams, Joseph De Beaulieu, Joseph Traversie, James McKensie, Joseph Brussels, Elizabeth Bergen, and the children of Major Alexander Trueman and Colonel John Harding, one thousand seven hundred and fifty-three dollars and thirty-three cents.

For the expenses of intercourse with foreign nations during the present year, and making good the deficiency of the appropriation for the year one thousand eight hundred, for the expense of the mission to France, eighty-five thousand dollars.

For carrying into effect the Treaty of Amity, Commerce, and Navigation, between the United States and the King of Great Britain, fifty-eight thousand eight hundred and sixty-four dollars.

For a deficiency of former appropriations for carrying into effect the treaty between the United States and the King of Spain, forty-six thousand five hundred dollars.

For fulfilling the engagements of the United States with the Mediterranean Powers, two hundred and fifty-six thousand dollars.

For prosecuting the claims of American citi-

zens for property captured by the belligerent Powers, sixty-four thousand dollars.

For the relief of American seamen, thirty thousand dollars.

For defraying the further expenses incident to the valuation of houses and lands, and the enumeration of slaves, within the United States, forty thousand dollars.

For the support of light-houses, beacons, buoys, and public piers, and other improvements in navigation, thirty-eight thousand six hundred and twenty-two dollars and seventy cents.

For discharging the expense of the second enumeration of the inhabitants of the United States, the sum of sixty thousand dollars.

For discharging such miscellaneous claims against the United States, not otherwise provided for, as shall be admitted at the Treasury, which, according to the usage thereof, require payment in specie, four thousand dollars.

For the expense of returning the votes for President and Vice President of the United States, one thousand five hundred and twenty-four dollars and fifty cents.

For repairing the building occupied by the Treasury Department, the sum of two thousand dollars.

For satisfying the claim of Clement Biddle, twenty-nine thousand eight hundred and fifty-six dollars and sixty-three cents.

For erecting a light-house at Old Point Comfort, the sum of three thousand five hundred dollars.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid and discharged out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 3, 1801.

An Act making appropriations for the Navy of the United States for the year one thousand eight hundred and one.

Be it enacted, &c., That, for defraying the expenses of the navy of the United States for the year one thousand eight hundred and one, there shall be, and hereby is, appropriated the sum of three millions forty-two thousand three hundred and fifty-two dollars and ninety-five cents, that is to say:

For the pay of the officers of the navy of the United States, the sum of three hundred and eighty-two thousand seven hundred and eighty-eight dollars.

For the subsistence of the officers of the navy, the sum of sixty-nine thousand eight hundred and two dollars and sixty cents.

For the pay of the seamen, the sum of eight hundred and sixteen thousand six hundred and sixty dollars.

For provisions, the sum of five hundred and ninety-seven thousand one hundred and one dollars and thirty-seven cents.

For the expenses of medicines, hospitals, and hospital stores, the sum of thirty-one thousand six hundred and forty-seven dollars and twenty cents.

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For the contingent expenses of the navy, including expenditure of military stores, the sum of three hundred and forty-four thousand six hundred dollars.

For salaries to storekeepers, clerks, store rent, laborers, and other contingencies, the sum of thirty-seven thousand eight hundred and fifty dollars.

For the pay of the officers, non-commissioned officers, and privates, of the marine corps, the sum of ninety-nine thousand two hundred and thirty-four dollars.

For the subsistence of the officers and privates of the marine corps, the sum of eleven thousand four hundred and eighty-six dollars and ten cents.

For clothing for the marine corps, the sum of thirty-three thousand five hundred and eighty-one dollars and thirty cents.

For military stores for the marine corps, the sum of nine thousand one hundred and sixty-six dollars and thirty-eight cents.

For the contingent expenses of the marine corps, including camp equipage, quartermaster, barrack-master, hospital stores, stationery, and other contingencies, the sum of thirteen thousand four hundred and thirty-six dollars.

For the expenses attending six seventy-four gun ships, and for completing navy yards, docks, and wharves, the sum of five hundred thousand dollars.

For erecting marine barracks, the sum of twenty thousand dollars.

For maintenance of French prisoners, the sum of thirty thousand dollars.

For making up deficiency of former appropriations for the maintenance of French prisoners, the sum of forty-five thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of the unexpended balance of appropriations for the navy, at the close of the last year, and out of any other moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1801.

An Act directing the mode of estimating certain foreign coins and currencies, and of making out invoices in certain cases.

Be it enacted, &c., That, from and after the passing of this act, the foreign coins and currencies hereinafter mentioned, shall be estimated in the computation of duties at the following rates: each sicca rupee of Bengal, and each rupee of Bombay, at fifty cents; and each star pagoda of Madras, at one hundred and eighty-four cents; anything in any former act to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That, from and after the thirtieth day of June next, the invoices of all goods imported into the United States, and subject to a duty ad valorem, shall be made out in the currency of the place or country from whence the importation shall be made, and shall contain a true statement of the actual cost of such goods; in such foreign currency or currencies, without any respect to the value of the coins of the United States, or foreign coins which now are,

or shall be by law made current within the United States in such foreign place or country.

Approved, March 3, 1801.

An Act to augment the salaries of the District Judges in the districts of Massachusetts, New York, New Jersey, Delaware, and Maryland, respectively.

Be it enacted, &c., That, instead of the compensation at present allowed to the district judges for the districts of Massachusetts, New York, Delaware, and Maryland, respectively, there shall hereafter be allowed to the district judge for the district of Massachusetts, the yearly salary of sixteen hundred dollars; to the district judge for the district of New York, the yearly salary of sixteen hundred dollars; to the district judges of the districts of New Jersey and Delaware, the yearly salaries of twelve hundred dollars each; and to the district judge for the district of Maryland, the yearly salary of sixteen hundred dollars, to be paid at the Treasury of the United States in quarterly payments.

SEC. 2. *And be it further enacted*, That, for the year one thousand eight hundred and one, there shall be appropriated the sum of eight hundred dollars, to satisfy the additional compensation hereby allowed to the district judges, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 3, 1801.

An act in addition to an act, entitled "An act making provision for the further accommodation of the household of the President of the United States."

Be it enacted, &c., That the Secretary of the Treasury be authorized to appoint a proper person, who shall receive the public property belonging to the household of the President of the United States, and, after taking an inventory of the same, shall deliver it, after the third day of March instant, to the President of the United States.

SEC. 2. *And be it further enacted*, That such articles of the furniture belonging to the President's household as may be decayed, out of repair, or unfit for use, and as the President of the United States, for the time being, may direct, and all the public property, other than furniture, now belonging to the said household, shall be sold, under the direction of the Heads of the several Departments of State, of the Treasury, of War, and of the Navy; and that the proceeds of such sales be expended, in addition the funds already appropriated for that purpose, under the direction of the same officers, for the purpose of providing furniture for the house erected for the accommodation of the President of the United States.

Approved, March 3, 1801.

An Act for altering the times and places of holding certain courts therein mentioned, and for other purposes.

Be it enacted, &c., That the circuit courts of the United States within the districts of Maine, New Hampshire, Massachusetts, and Rhode Island,

shall, after the passing of this act, commence and be respectively held on the several days hereinafter expressed, instead of the times heretofore established by law, that is to say: in and for the district of Rhode Island, at Providence, on every first day of April, and at Newport on every eleventh day of November; in and for the district of Massachusetts, on every eighth day of April and twenty-fifth day of October; in and for the district of New Hampshire, at Portsmouth, on every twenty-third day of April, and at Exeter on every fifteenth day of October; in and for the district of Maine, at Portland, on every first day of May, and at Wiscasset, on every sixth day of October, except when any of those days shall happen on a Sunday, and then the session shall commence on the next day following.

SEC. 2. *And be it further enacted*, That all actions, suits, process, and other proceedings, of what nature or kind soever, depending and undetermined before the circuit courts aforesaid, respectively, or that shall be depending and undetermined on the first day of April next, before the district court for the district of Maine, acting as a circuit court, shall be continued to the next circuit courts, respectively, hereby directed to be holden in and for the districts aforesaid, respectively.

SEC. 3. *And be it further enacted*, That all writs and processes which have been, or shall be duly sued out and made returnable to either of the circuit courts aforesaid, or to the district court for the district of Maine, acting as a circuit court, on either of the days on which the same courts were respectively to have been held prior to the passing of this act, and all recognizances that have been, or shall be, duly taken and made so returnable, (said writs and processes having been duly and seasonably served,) shall be returned to and proceeded upon in the said next circuit courts, respectively, which are next to be holden in and for the districts aforesaid, respectively, as hereby directed; and all property attached by virtue of such writs or processes, shall be held in due form of law, to respond the final judgments that shall be obtained upon the same, respectively.

SEC. 4. *And be it further enacted*, That the district courts of the United States, in the State of North Carolina, shall, after the passing of this act, commence and be held on the several days hereinafter expressed, instead of the times heretofore established by law, that is to say: at Edenton, in and for the district of Albemarle, on every last Monday of March, third Monday of June, and last Monday of November; at Newbern, in and for the district of Pamlico, on every first Monday of April, fourth Monday of June, and first Monday of December; and at Wilmington, in and for the district of Cape Fear, on every second Monday of April, first Monday of July, and second Monday of December.

SEC. 5. *And be it further enacted*, That all actions, suits, writs, process, pleadings, and other proceedings, commenced, instituted, depending, or existing, in the district courts of the district of New Jersey and North Carolina, at the time of the passing of this act, shall be continued in man-

ner following, that is to say: all such commenced, instituted, depending, or existing, in the district court of the district of New Jersey, to the next district court to be holden in the district of East Jersey; and all such commenced, instituted, depending, or existing, in the district court of the district of North Carolina, shall be continued to the next district court to be holden in the district of Pamlico.

SEC. 6. *And be it further enacted*, That from and after the passing of this act, the circuit court of the United States for the district of Kentucky shall be holden at Frankfort, within and for said district, on the days already established by law, instead of at Bairdstown, anything in any other law to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That the chief judge of the district of Columbia shall hold the district courts of the United States in and for the district of Potomac, and shall have, exercise, and perform, within the said district of Potomac, all the powers and duties now possessed, exercised, and performed, by the district judges of the United States within their respective districts.

Approved, March 3, 1801.

An Act to amend the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," and to repeal the act entitled "An act to enlarge the powers of the surveyors of the revenue."

Be it enacted, &c., That each surveyor of the revenue who has been or shall be appointed under the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves, within the United States," after completing the lists of the sums payable for every dwelling-house and slave within the district to which such surveyor does or shall belong, and delivering the same to the collector of the revenue, and after taking receipts for such lists from the collector, in the manner provided by the act entitled "An act to lay and collect a direct tax within the United States," shall transmit to the supervisor of the district, or to the inspector of survey, in any district comprehending more than one survey of inspection to which such surveyor does or may belong, the receipts given by the collector for such lists, together with all the records of the lists, valuations, and enumerations, which he has received or shall receive, or which doth or shall exist in his office, under authority of the act first mentioned; and it shall be the duty of such supervisor or inspector to receive such receipts, records, and papers, and safely to preserve the same.

SEC. 2. *And be it further enacted*, That so much of the act entitled "An act to provide for the valuation of lands and dwelling-houses, and the enumeration of slaves," as makes it the duty of the surveyors of the revenue to record the transfers of lands or dwelling-houses included in the said valuations, and to view and apportion the value of such land or dwelling-houses as shall be divided by sale or partition, and to value and assess new dwelling-houses and lands which are exempted,

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but which shall cease to be exempted from taxation by the laws of the State where the same shall be situated, and to cancel or reduce the valuation of dwelling-houses which may be damaged or destroyed by fire or other accidents, shall be and the same is hereby repealed.

SEC. 3. *And be it further enacted*, That the act entitled "An act to enlarge the powers of the surveyors of the revenue," passed on the thirteenth day of May, in the year one thousand eight hundred, shall be and the same is hereby repealed.

Approved, February 27, 1801.

An Act further to alter and to establish certain post roads.

Be it enacted, &c., That the following post roads be discontinued:

From Lancaster to New Holland, in Pennsylvania.

From Greenville, in Tennessee, by the Warm Springs, to Buncomb Court-house.

From Elizabeth City, in North Carolina, by New Lebanon, to Northwest river bridge.

From Upper Marlborough to Piscataway.

From Henderson Court-house to Muhlenberg Court-house.

SEC. 2. *And be it further enacted*, That the following be established as post roads:

In Maine—From Standish to Fryburg.

In New Hampshire—From Amherst, by Franconstown, Washington, and Claremont, to Windsor, in Vermont.

In Vermont—From Bennington to Brattleborough.

From Newbury, by Bradford, Corinth, Washington, and Barre, to Montpelier.

In Massachusetts—From Leominster, through Westminster, Templeton, and Athol, to Greenfield.

From Worcester, by Mendon, to Providence, and from Worcester to Lancaster.

In Rhode Island—From Providence, by Rehoboth and Attleborough, to Taunton, Massachusetts.

In New York—From Albany, by Duanesburg and Durlock, to Cherry Valley.

From Poughkeepsie, by Sharon, to Litchfield.

In Delaware—From Georgetown, by Concord and the village of Laurel, to Salisbury.

In Maryland—From Annapolis to Easton, by Young Haddaways.

From Annapolis to Centreville, by Kent Island.

From the City of Washington to Piscataway.

From Elkton, by Warwick and Bridgetown, to Greensborough, in Caroline county.

From the City of Washington, by Brookville and W. Hobbs's, in Frederick county, to Taneytown.

From the City of Washington to Wiley's tavern, in Fairfax county, Virginia.

In Pennsylvania—From Pittsburgh, by Georgetown and Canfield, to Warren, in the Northwestern Territory.

From Berwick to Wilkesbarre.

In Virginia—From Richmond to Charles City Court-house.

* From Clarkesburg to Marietta.

From Romney to Morganton or Clarkesburg.

From Alexandria, by Thomas's ferry, to Piscataway, in Maryland.

From Halifax Court-house to Danville.

From Bowling Green, by Broadus's mill, S. Harrison's, and Dunkirk, to New Kent Court-house.

The post road from Jerusalem to Hicks's ford shall pass by the Cross-keys, and from the Cross-keys to Murfreesborough.

From Petersburg, by Sussex Court-house, to Southampton Court-house.

From Jamestown to Farmville.

The mail from Mecklenberg Court-house, in Virginia, to Christianville, shall be carried by Marshall's and Wilson's store.

In the Northwestern Territory—From Cincinnati to Detroit.

In Indiana Territory—From Vincennes, by Kaskaskias, to Kahokia.

In Kentucky—From Harding Court-house to Breckenridge Court-house, to Henderson Court-house, Eddy Grove, and Eddyville, to Fort Massac.

From Breckenridge Court-house, by Hartford and Vienna, to Muhlenberg Court-house.

In Tennessee—From Knoxville, by Sevierville, Newport and the Warm Springs, to Buncomb Court-house.

From Newport, by Cheek's cross roads, to Oresville.

In the Mississippi Territory—From Natchez to the southern boundary line of the United States.

In North Carolina—The post road from Raleigh to Chatham Court-house shall pass through Haywoodsborough.

The post road from Raleigh to Newbern shall pass through Green county.

From Elizabeth City to Indiantown and Tull's creek to Northwest river bridge.

The post road from Winton to Windsor shall pass through Pitch landing and Colerain.

From Louisburg, by Nash Court-house, to Tarborough.

From Charlotte Court-house to York Court-house, in South Carolina.

From Charlotte to Camden, in South Carolina.

SEC. 3. *And be it further enacted*, That all letters and packets from John Adams, now President of the United States, after the expiration of his term in office, and during his life, shall be received and conveyed by post free of postage.

SEC. 4. *And be it further enacted*, That this act shall not be construed to affect any existing contracts.

Approved, March 3, 1801.

An Act for erecting light-houses on New Point Comfort, and on Smith's Point, in the State of Virginia, and on Faulkner's Island, in Long Island Sound, in the State of Connecticut, and for placing buoys in Narraganset Bay.

Be it enacted, &c., That as soon as a cession shall be made by the State of Virginia to the United

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States, of the jurisdiction over the land proper for the purpose, the Secretary of the Treasury be, and he is hereby, authorized to provide by contract, to be approved by the President of the United States, for building a light-house on New Point Comfort, and another light-house on Smith's Point, both in the State aforesaid, and to furnish the same with all necessary supplies; and, also, to agree for the salaries or wages of the persons who may be appointed by the President for the superintendence and care of the same, and that the President be authorized to make the said appointments.

SEC. 2. *And be it further enacted*, That as soon as a session shall be made by the State of Connecticut, of the jurisdiction over the land proper for the purpose, the Secretary be, and he is hereby, authorized to provide by contract, to be approved by the President of the United States, for building a light-house on Faulkner's Island, in Long Island Sound, in the said State of Connecticut, and to furnish the same with all necessary supplies, and also to agree for the salaries or wages of the person or persons appointed by the President for the superintendence and care of the same, and that the President be authorized to make the said appointments.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be placed one buoy on the shoal south of Kinnimicut Point, and one buoy on a ledge called the Half Way Rock, in the Narraganset Bay, in the State of Rhode Island.

SEC. 4. *And be it further enacted*, That there

be appropriated and paid out of the moneys arising from imports and tonnage, the sum of five thousand dollars for the purpose of erecting the light-house as aforesaid on New Point Comfort; the sum of nine thousand dollars for the purpose of erecting the light-house as aforesaid on Smith's Point; the sum of six thousand dollars for erecting the light-house as aforesaid on Faulkner's Island, in Long Island Sound, and the sum of one hundred and fifty dollars for placing two buoys as aforesaid in the Narraganset Bay, in the State of Rhode Island.

Approved, March 3, 1801.

Resolution respecting certain property of the United States in the possession of Thomas Claxton, James Mathers, and Thomas Dunn, Doorkeepers to Congress.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That Thomas Claxton, James Mathers, and Thomas Dunn, be permitted to occupy, free of rent, until otherwise directed by Congress, the houses now in their respective possession, the property of the United States, in the public square in the City of Washington on which the Capitol stands, together with a small piece of ground contiguous to each, for a garden, to be enclosed in such a manner as not to interfere with any of the public streets or avenues passing through the said square.

Approved, March 2, 1801.